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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

TIAR McCART,

Plaintiff,

v.

Civil Action No.

EQUITY PRIME MORTGAGE, LLC

1:21-cv-04247-

AND MARK MOLOUGHNEY

CAP-LTW

in his Individual Capacity,

Defendants.

DEPOSITION OF

EDDY PEREZ

DATE: Monday, August 15, 2022

TIME: 10:05 a.m.

LOCATION: Elarbee, Thompson, Sapp & Wilson, LLP

800 International Tower

229 Peachtree Street Northeast

Atlanta, GA 30303

REPORTED BY: Ariel Dallas, Notary Public

JOB NO.: 5316895

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A P P E A R A N C E S

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1 A P P E A R A N C E S (Cont'd)
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I N D E X

EXAMINATION:

PAGE

By Ms. Ragan

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E X H I B I T S

NO.

DESCRIPTION

PAGE

Exhibit 55

E-Mail, Indeed.com Review

Incentive

228

Exhibit 56

E-Mail, YouTube Review Incentive

233

Exhibit 57

E-Mail, Referencing Jeff Batson

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(Exhibits retained by counsel.)

P R E V I O U S L Y M A R K E D E X H I B I T S

NO.

DESCRIPTION

PAGE

Exhibit 32

E-Mail

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Exhibit 34

Photographs

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Exhibit 35

Online Reviews of Equity Prime

Mortgage

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(Exhibits retained by counsel.)

QUESTION INSTRUCTED NOT TO ANSWER

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LINE

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P R O C E E D I N G S

THE REPORTER: Good morning, everyone.

My name is Ariel Dallas, and I am the reporter assigned by Veritext to take the record of this proceeding. We are now on the record at 10:05 a.m.

This will be the deposition of Eddy Perez taken in the matter of Tiar McCart vs. Equity Prime Mortgage, LLC and Mark Moloughney in his Individual Capacity, on August 15, 2021 [sic], at 229 Peachtree Street Northeast, Atlanta, Georgia 30303.

I am a notary authorized to take acknowledgments and administer oaths in Georgia.

Absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and
- shall constitute written stipulation of such.

Also before I continue, I will ask if

1 you will just click this microphone onto yourself
2 here, Mr. Perez.

3 And are you both going to be asking
4 questions today?

5 MR. WILSON: I doubt it.

6 THE REPORTER: Okay. Well, whichever
7 of you will be asking questions, I'll just ask that
8 you wear the microphone here.

9 And for you as well. You have a
10 microphone.

11 MS. RAGAN: Oh. Okay.

12 THE REPORTER: This stretches and you
13 just put it on yourself.

14 MR. PEREZ: I don't know if I heard it
15 wrong, but I thought you said August 15, 2021.

16 THE REPORTER: Well, I'll correct
17 myself if you did hear that.

18 MR. PEREZ: I thought I did.

19 THE REPORTER: You might have. You
20 might have.

21 MR. PEREZ: Maybe I'm off.

22 THE REPORTER: But just to clarify,
23 today is August 15, 2022. Thank you for that, Mr.
24 Perez.

25 And also while you're wearing the

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1 microphones, just be aware that they are sensitive to
2 touch, whispering, and cell phone noises.

3 And we'll agree to stay on the record
4 until all parties agree to go off the record.

5 And at this time if y'all wouldn't mind
6 to introduce yourselves for the record, starting here
7 from my left.

8 MR. PEREZ: Legal name? Everything?
9 What?

10 THE REPORTER: All of the above.

11 MR. PEREZ: Okay. Hi. Eduardo G.
12 Perez, Jr. I go by Eddy.

13 THE REPORTER: Thank you, sir.

14 MR. WILSON: And representing the
15 defendants, Brent L. Wilson, Elarbee, Thompson, Sapp &
16 Wilson.

17 MS. SMITH: Shannon Smith, also
18 Elarbee, Thompson.

19 MR. KREINER: Hi. Good morning. Seth
20 Kreiner, Kreiner Burns. Counsel for Equity Prime and
21 Mr. Perez.

22 MS. RAGAN: Amelia Ragan, counsel for
23 plaintiff, Tiar McCart.

24 THE REPORTER: Perfect. And then
25 hearing no objection, I will now swear in the witness.

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1 Mr. Perez, please raise your right
2 hand.

3 WHEREUPON,

4 EDDY PEREZ,
5 called as a witness, and having been first duly sworn
6 to tell the truth, the whole truth, and nothing but
7 the truth, was examined and testified as follows:

8 THE REPORTER: Thank you, sir.

9 And please begin.

10 MS. RAGAN: Thank you so much.

11 EXAMINATION

12 BY MS. RAGAN:

13 Q Good morning, Mr. Perez.

14 A Good morning.

15 Q As I said, my name is Amelia Ragan. I
16 represent Tiar McCart in her claims against Equity
17 Prime Mortgage and Mark Moloughney. I'm going to be
18 asking you a few questions today related to her
19 claims. Have you ever been deposed before, Mr. Perez?

20 A [No audible response.]

21 Q Okay. If you can --

22 A Yes. Sorry.

23 Q Thank you.

24 A I caught myself. Apologies. Give
25 me -- it's been a while. So give me a little bit of

1 some grace. But I'll get there. I caught myself.

2 Q It's human nature and literally every
3 witness does it. So please don't worry. And if you
4 catch me correcting you or noting that, please note
5 I'm not being nitpicky. I'm just making
6 clarifications for the record.

7 A She's got to get it on the record.

8 Q Yes, sir. So I anticipate that today's
9 deposition will go very similarly to any prior
10 deposition you've been in. I will just remind you of
11 a couple of logistical rules that will help us proceed
12 as smoothly as possible.

13 The first you've already, sort of, picked up
14 on. If you want to respond with a yes or a no to any
15 of my questions, just make sure to vocalize --

16 A Say it.

17 Q -- yes or no. If any time I ask you a
18 question that's in any way confusing or unclear to
19 you, please let me know. I'll be glad to rephrase it
20 until it is clear to you. However, if you answer my
21 question without indicating any confusion, I'll assume
22 that you understood the question when you answered it.
23 Okay?

24 A Sounds good. Yes.

25 Q Okay. Thank you. If you need a break at

1 any time, please let me know. We'll be glad to go off
2 the record, and allow you to take whatever break that
3 you need. My hope is that I won't be taking up too
4 much of your time today. But if I have asked you a
5 question, I will ask that you completely respond to
6 that question before we go off the record for the
7 break. Okay?

8 A I might need bathroom breaks. I just drank
9 a lot of water.

10 Q That's fine. Whenever you need one, let me
11 know. And then, let's see. Oh. If you can, I
12 anticipate that the vast majority of the questions I'm
13 going to be asking you today, you're going to know
14 where I'm going before I even complete the question.

15 For the clarity in the record, if you'll
16 allow me to complete the question in the record before
17 you begin your answer so we're not talking over each
18 other. I'll extend the same courtesy to you. I'll
19 let you complete your response before I move on to my
20 next question. Okay?

21 A I understand.

22 Q All right. Good deal. So we'll just jump
23 right in. Can you tell me what, if anything, you did
24 to prepare for your testimony today?

25 A Talked to Legal.

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1 Q Okay. Did you speak to anybody other than
2 counsel in preparing for your testimony?

3 A No.

4 Q Okay. Did you speak to any coworkers or
5 other employees of Equity Prime Mortgage?

6 A No.

7 Q Okay. Throughout the day today I might
8 refer to Equity Prime Mortgage using the acronym EPM.
9 Will you understand what I'm talking --

10 A Please do. It would be easier.

11 Q Okay. Great. Did you review any documents
12 in preparing to testify today?

13 A The Complaint.

14 Q Okay. Any other documents other than Ms.
15 McCart's Complaint?

16 A [No audible response.]

17 MR. WILSON: Verbal answer.

18 THE WITNESS: Oh. No. Sorry.

19 MS. RAGAN: Thank you.

20 BY MS. RAGAN:

21 Q I'm going to ask you a couple of questions
22 about your background now. Can you tell me what's
23 your highest level of education?

24 A I graduated with a degree in finance and the
25 major in -- excuse me. I graduated with a degree in

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1 bachelor's business administration in finance from
2 Georgia State University with a minor in sociology.

3 Q Okay. And what year did you receive that
4 degree?

5 A 1999.

6 Q Okay. And that's the highest degree you
7 attained?

8 A Degree. Yes. But I have a certification in
9 the industry of a certified mortgage banker, which is
10 what they consider like an MBA for the industry. It's
11 like 150 hours. Pretty intense, so. But from an
12 accredited university, I guess, yes.

13 Q Okay. Well, you already anticipated my next
14 question. Do you hold any other certifications other
15 than the certified mortgage banker certification?

16 A I hold that one. I hold a DE which is an
17 underwriting. I also hold state licenses in --

18 THE WITNESS: -- thirty-eight, Seth?
19 Forty?

20 I can't remember when they changed the
21 law. I used to have to take it for every state. And
22 then they passed one that allowed for everything, so.
23 I hold all those as well, so.

24 BY MS. RAGAN:

25 Q And what is that --

1 A I take a lot of CE classes.

2 Q See? I broke the rule about time. So
3 excuse me for talking over you. What is the license
4 that you're referring to that you have to --

5 A You have to have a license by the SAFE Act
6 to be an originator. And every organization has to
7 have a responsible individual. And I'm the
8 responsible individual for the organization. And that
9 requires licensing and passing a lot of tests. It's
10 easier today than 12 years ago or so. Thirteen years
11 ago.

12 Q Good deal. All right. Let's talk about
13 your employment. Do I understand correctly that
14 you're currently employed by Equity Prime Mortgage?

15 A Yes.

16 Q And what is your position there?

17 A CEO and president.

18 Q Okay. How long have you been in that role?

19 A Which one?

20 Q Well, to the extent that they're different
21 I'm asking about both CEO and president roles.

22 A The -- what date was that? March of 2020.

23 Q Okay. You became CEO and president?

24 A I was president just previously before that.

25 Q Okay. So when did you first become

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1 president?

2 A Founding. February of 2008.

3 Q So when you say founding what you mean is
4 that from the beginning of the company, you were in
5 the president role?

6 A Yeah. Its formation. We had had another
7 company three years before. And then we transferred
8 from being a mortgage broker to a mortgage lender.

9 Q Okay. Tell me what was the name of the
10 company that you had prior to transitioning into
11 Equity Prime Mortgage.

12 A We were an affiliate office for Global
13 Mortgage.

14 Q Okay. All right. Can you just generally
15 describe the business of Equity Prime Mortgage?

16 A We are a residential mortgage lender and
17 servicer, licensed in all 50 states including -- well,
18 it's more than 50 states. Including Puerto Rico and
19 D.C., because they require different licenses.

20 Q Okay. And approximately how many employees
21 does the company have?

22 A A little under 500. I don't know the exact.
23 That's HR.

24 Q Okay. Understood. I want to talk to you
25 about valuation in the company. Can you estimate for

1 me the amount of profits that the company earned in
2 2021?

3 A What do you define as profits?

4 Q Well, the amount of money received after all
5 expenses are paid.

6 A That -- the only reason I say that is 'cause
7 a lot of the income is deferred. So it may not be
8 calculated, and a lot of times it's not. So that's
9 why I had to ask that.

10 Q So for you to describe it in the terms that
11 feel most comfortable to you. It doesn't have to be
12 profit by my definition.

13 A I don't want to say in '21 because of how
14 much was deferred. And I had a very low tax
15 liability. I'd say almost the profits were minimal.

16 Q Okay. And when you say deferred, describe
17 that for me.

18 A Asset that we collect, that by the
19 regulations we defer the income.

20 Q Okay. And to what did you defer it?

21 A You keep it on your books and you just defer
22 it and --

23 Q To the next year?

24 A -- as you collect -- no. What happens is
25 you collect the monthly. That's why we're a servicer.

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1 So when the servicing income comes, that's when you
2 pay your taxes. That's obviously a lot smaller than
3 how you'd defer it.

4 Q Okay. And how much did you defer in 2021?

5 A Eighteen million.

6 Q Okay. All right. Same question for 2020.

7 A Mm-hmm.

8 Q Estimation to the best of your ability.

9 A How much did we defer? I had to
10 pay -- million in taxes. Seven. Capital gains. I'd
11 ballpark it that we deferred probably about
12 50,000,000.

13 Q Okay. And can you estimate what the profits
14 were? Or was it the same scenario for 2020 where you
15 deferred the majority of --

16 A No. That one had some 'cause I had to pay
17 some taxes. So I'd say that the income was about
18 15,000,000. Sixteen. Somewhere around there.

19 Q And for 2019, what would have been the
20 profits that year?

21 A It was like 300,000. No deferred.

22 Q Okay. What was the reasoning, to the best
23 of your ability to describe it, for the significant
24 difference between 2019 and 2020?

25 A My business partner had a heart attack late

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1 '18. I took the reins. He signed away day-to-day
2 leadership 'cause he said the stress was too hard of
3 the industry. And we refined the organization and
4 that led to a low of growth.

5 Q Okay. Good for you.

6 A Thank you.

7 Q Who is your business partner that had the
8 heart attack in 2018?

9 A Kunjan Patel.

10 THE REPORTER: Would you mind to spell
11 his first name for me, please?

12 THE WITNESS: K-U-N-J-A-N Patel.

13 BY MS. RAGAN:

14 Q Okay. Is he involved in the company at all
15 at this point?

16 A Not as of ten minutes ago.

17 Q Oh. Okay.

18 A I'm not even exaggerating. Or 20 minutes
19 ago. Whatever. Right before we got in here.

20 Q Okay. Well, perfect timing then.

21 All right. I want to talk to you about the
22 policies of Equity Prime Mortgage. Are you familiar
23 with the sexual harassment policy of the company?

24 A I know that that's something that Jim
25 Minghini, our head of compliance, as well as head of

1 HR. I'm aware of them, but I don't know them in great
2 detail.

3 Q Okay. How long has Mr. -- is it Minghini?
4 How long has Mr. Minghini been the head of HR?

5 A He's not the head of HR. He's the chief
6 compliance officer.

7 Q Chief compliance officer. Thank you for
8 clarifying that. How long has he been the chief
9 compliance officer?

10 A Either May or June of 2015. I want to say
11 May.

12 Q Thank you for the estimation. Did he have a
13 hand in drafting the policies? Is that why you
14 referred to him?

15 A Well, he was over HR for a long time. HR
16 reported to him. It does not today. But I don't know
17 when to talk about past or present depending on dates.

18 So I like to give the information so that
19 way -- I don't know if he did. I'm sure he oversees
20 it. He does a good job. But I don't know if he
21 drafted it or who did it exactly.

22 Q Okay. And I appreciate you clarifying
23 dates. You're doing a fine job. So to the extent
24 that I ask you a question that the answer was one way
25 in a certain period of time and a different way in a

1 different, please feel free to --

2 A That's why I'll probably ask you what dates.

3 That's why I was asking about certain things.

4 Q That's just fine. You said he used to be
5 the head of HR. Did I understand that correctly?

6 A [No audible response.]

7 Q Is that a yes?

8 A Yes. Oh. Sorry. Yes.

9 Q It's totally fine. Again everyone does
10 that.

11 A There was a head of HR but she reported to
12 him.

13 Q Okay. And that was whom?

14 A Nyree Green at the time.

15 Q And who --

16 A Oh. Wait. Excuse me. What date are you
17 referring to?

18 Q Well, I was about to ask you.

19 A Dates are going to be very important. So
20 that's why. A lot of things have changed. So I have
21 to make sure I'm dead accurate.

22 Q So let's back up then. You were
23 telegraphing my next question. At what point did Mr.
24 Minghini's role as HR end?

25 A Eric became the chief people officer, if I

1 had to guess, June of '21. July. Maybe May.
2 Summer-ish.

3 Q Okay. More like spring, summer?

4 A Summer-ish of '21.

5 Q An estimation is fine. I appreciate that.
6 So if I'm understanding, sort of, the bookends that
7 you've created, Mr. Minghini was the chief compliance
8 officer. And in that role heading up the HR division
9 from approximately May 2015 through approximately
10 early summer of 2021.

11 A I don't know if he started May of '15, but I
12 know it was not long after that.

13 Q Okay. But the ending date is accurate?

14 A Accurate. Correct.

15 Q Okay. And so to get back to our point about
16 Ms. Green, he would have been supervising Ms. Green in
17 that period of time between approximately mid-2015
18 through --

19 A Yes.

20 Q -- mid-2021.

21 A I've been shaking my head yes.

22 Q Okay. 2021.

23 A Oh. Wait. No. Ms. Green wasn't the head
24 of HR that whole time either.

25 Q Okay. So let's clarify that then. Do you

1 know when Ms. Green took over the HR director role?

2 A July of 2020. Or maybe August. Somewhere
3 around there.

4 Q Okay. And how long did she stay in that
5 role?

6 A A year.

7 Q A year. So approximately late summer of
8 2021?

9 A Early spring.

10 Q In the spring?

11 A Early fall. Excuse me. Yes. Somewhere
12 around there.

13 Q Okay. And just to clarify, can you tell me
14 what her title was?

15 A Oh, God. You're going to quote me on it. I
16 don't know if it was director of HR. Head of HR.

17 Q Head of HR.

18 A I -- I don't know the exact title to be
19 honest with you.

20 Q The estimation is fine. I appreciate it.
21 Okay. Do you understand what the circumstances were
22 that resulted in Ms. Green leaving that role of
23 director of HR?

24 A I think she just had another opportunity.

25 Q Okay. She voluntarily resigned?

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1 A Mm-hmm.

2 Q Is that a yes?

3 A Yes.

4 Q Okay. All right. So we were talking about
5 your knowledge of the policies. I do understand that
6 you stated that you're not familiar with the specifics
7 of the sexual harassment policy. Is that fair to say?

8 A That is very fair to say.

9 Q Okay. Have you had any training on that
10 policy?

11 A On what policy?

12 Q The sexual harassment policy.

13 A Ours? Or any one in general?

14 Q Well, let's talk about Equity Prime first.

15 A Yes. I've had the training.

16 Q All right. When did you take the training
17 that Equity Prime offers on its sexual harassment
18 policy?

19 A Oh, God. First time?

20 Q Sure. If you've taken it multiple times,
21 you can provide that as well.

22 A Yeah. No. I've -- I've taken it a lot.

23 Q Okay. Can you recall the first time?

24 A It's been a while. And a while, and I'm not
25 talking about months. I'm talking about years. I

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1 mean, it's been, I don't know. Five, ten years. Some
2 range like that.

3 I mean, I know I had business training
4 before that because that's required in our licensing
5 in the state of Florida.

6 Q Okay. Focusing for the time being on the
7 training that Equity Prime Mortgage does, do I
8 understand correctly that you're saying it's been
9 approximately five to ten years ago that you took that
10 training for the first time?

11 A Yes.

12 Q Okay. And do you take that training
13 annually?

14 A Yes.

15 Q Without fail?

16 A Yes.

17 Q Have you ever missed a year of that
18 training?

19 A [No audible response.]

20 Q Is that a no?

21 A Yeah. That's a no. Sorry. I would lose my
22 licenses. That's part of the CEs that we also have to
23 take.

24 Q Okay. And again, we're talking about the
25 training that Equity Prime Mortgage offers. Correct?

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1 A Yes.

2 Q And how do you take that training? Describe
3 for me the process that you go through for the
4 training.

5 A Over the years we've had a few iterations.
6 We've moved more to an advanced way now that's a lot
7 more effective which is BAI, I believe. Or one of
8 those vendors.

9 We had a previous vendor. At one point in
10 time we would have refreshers company-wide. So we had
11 iterations. So I hate to say a hodgepodge, but a few
12 different ways.

13 Q Okay. How long have you -- has Equity Prime
14 Mortgage been using the BAI training?

15 A I don't know.

16 Q Okay. Is that training an online training?
17 Is it an in-person training? Are you sitting in a
18 classroom?

19 A Over the years we've done all of the above.

20 Q Okay. What about since 2019? Between 2019
21 and the present? Can you describe for me the way in
22 which that training is administered?

23 A I believe it's just been online. But I'm
24 not sure if it was '19 or '20 that that -- I'm not
25 sure.

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1 Q All right. Approximately somewhere between
2 2019, 2020, Equity Prime Mortgage started training
3 employees on its sexual harassment policy through an
4 online training --

5 A I think it was before that. But I'm not
6 sure if it was BAU [sic]. I know at one point in time
7 we used TrainingPro. That also tied in with our
8 licensing. That's why I say that's important with our
9 licensing because it's required by all originators.
10 So they, kind of, universally tied together.

11 So I'm not sure exactly when it changed.
12 But they wanted to remove it.

13 Q Okay. But both TrainingPro and BAI were
14 online training courses?

15 A Some of the times they -- they would send
16 people out. And I don't know who got what.

17 Q Okay. Do you know when the last time that
18 you can recall Equity Prime Mortgage offering
19 in-person training on its sexual harassment policy?

20 A I guess what I would say is what do you
21 define in-person today?

22 Q Well, use it how you would characterize that
23 phrase. An in-person training from my perspective is
24 you're sitting in a room --

25 A Like this?

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1 Q -- with someone standing in front of you
2 teaching a class. But you're the one with the
3 knowledge of the training course. So if it's
4 something different than that, then answer --

5 A Well, sometimes it just depends. Sometimes
6 they do those virtuals. Sometimes you could consider
7 a virtual in-person training. Sometimes it's the
8 instructor is virtual and it's there. I'm not sure.
9 'Cause I know that I've heard different ways.

10 That's why I just say as the expert on all
11 this is chief people officer and Jim. I -- I empower
12 them and never had any challenges. So they take it.

13 Q Okay. I'm mostly asking about your
14 experience in taking the training. I think we've
15 established in the record that you've taken it every
16 year for at least somewhere going back to five to ten
17 years ago.

18 So in your experience, can you tell me the
19 last time that you sat either virtually or in person
20 for a training where it's being conducted and led by a
21 trainer or a teacher?

22 A For EPM or in general?

23 Q EPM. Yes, sir. At this point the only
24 training I'm asking you about at all is the training
25 that is offered by Equity Prime Mortgage.

1 A I don't -- I don't -- dates are running in.
2 I'm not sure.

3 Q Okay. Have you ever to date, in the entire
4 history of Equity Prime Mortgage, sat for an in-person
5 training where the company has brought in a person,
6 either virtually or in-person, in a classroom to lead
7 or teach a training on the sexual harassment policy?

8 A Yeah.

9 Q Okay. You have. But you just don't recall
10 what year or years that occurred?

11 A No.

12 Q Okay. To your knowledge, was there any
13 in-person training, whether it be in a room together
14 or virtually, in 2019 on the sexual harassment policy
15 offered by Equity Prime?

16 A I yield the floor on that one to my experts.

17 Q Okay. So you're not sure?

18 A Yeah. I'm unaware.

19 Q What about in 2020? To your recollection
20 did you sit in person either in a room with a teacher
21 or virtually to receive training on Equity Prime
22 Mortgage's sexual harassment policy in 2020?

23 A As we know, 2020 was COVID year. So I'm
24 just not sure 'cause I know that we -- we did stay
25 open because we were deemed a essential industry. We

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1 had to drive around with that thing in our car so if
2 we got pulled over. I'm not sure.

3 A lot of those '21 and '20 run -- a lot of
4 those years run -- a lot of -- a lot of years run
5 since my business partner's heart attack almost four
6 years ago. A lot of things run counterintuitive. So
7 I'm not sure.

8 Q Okay. So just to be clear, the answer to my
9 question is you are not sure as you sit here today
10 whether or not you received in-person -- whether
11 virtually or in a room together -- training on Equity
12 Prime Mortgage's sexual harassment policy in 2020.

13 A Yeah. I'm not sure.

14 Q Okay. Same question for 2021. Can you
15 recall whether last year you received any in-person
16 training either virtually or in a room with a teacher
17 on Equity Prime Mortgage's sexual harassment policy?

18 A As I stated I'm not sure of those years, how
19 they run into each other.

20 Q Okay. What about this year, 2022? Have you
21 received any in-person training on Equity Prime
22 Mortgage's sexual harassment policy either virtually
23 or in a room with a teacher?

24 A No. I think this year is -- is online if I
25 recall properly.

1 Q Okay. And have you taken that online
2 training already this year for 2022?

3 A I don't know. I know I have to by the end
4 of the year for my licenses.

5 Q Okay. What about -- so we will go back
6 through these questions for 2019 through 2021 as well.

7 In the year 2019, do you recall receiving
8 any online training that was self-led by you on Equity
9 Prime Mortgage's sexual harassment policy?

10 A I wouldn't have led it.

11 Q Whenever I say led, I mean you yourself
12 logged into some online platform on your own volition
13 is what I mean by --

14 A Oh. I thought you said me. I'm not -- I'm
15 not an expert on that stuff plus that -- that has to
16 be lead by compliance and you have to have that
17 separation.

18 Q Right. Thank you for clarifying. What I
19 mean by self-led was that you yourself -- as opposed
20 to someone teaching you and otherwise leading
21 you -- were required to log into some online platform
22 and go through an online training course that provided
23 training in EPM's sexual harassment policy in 2019.
24 Did you do that?

25 A I kept all my licenses. So I have to

1 imagine I've done something.

2 Q Okay. And do you know whether or not it was
3 online training in 2019?

4 A It wasn't in person.

5 Q Okay. So is that a yes? It was an online
6 training?

7 A Speculatively, I'd have to say yes.

8 Q Okay. Same question for 2020. Do you
9 recall receiving online training on Equity Prime
10 Mortgage's sexual harassment policy in 2020?

11 A Like I said, you -- I turned those in for my
12 licenses. And I know that you say they're separated
13 but they're not because I am the responsible
14 individual. So if I lose my licenses, then the
15 organization is in some trouble of having to find a
16 new one.

17 So I would -- 'cause that's part of the
18 ethics and everything to keep licenses in the state of
19 Florida and all the states that we're licensed in. So
20 I would tell you that it had to get done.

21 Q Okay. So your answer is yes, you do believe
22 that you received some online --

23 A To the --

24 Q -- training --

25 A To the best of my ability. Yes.

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1 Q Okay. And that online training would have
2 been something that Equity Prime Mortgage offered to
3 you and your employees?

4 A Not necessarily. Well, no. I know that EPM
5 provides it. But I'm in a different anomaly because
6 I'm the -- not only principal shareholder, but like I
7 said, I'm depending on the state's -- some is
8 responsible individual; some call it a qualifying
9 individual. Potato, potato.

10 Q Okay. So I want to make sure your answer is
11 clear in the record. Are you telling me that you did
12 receive some online training for Equity Prime
13 Mortgage's sexual harassment policy in 2020?

14 A EPM's or the industry's or whatever
15 standards. One of those.

16 Q Okay. What you're saying is you know you
17 received online training in 2020 on sexual harassment.
18 You're not certain whether it was something that EPM
19 offered or something that was industry standard
20 training that you needed for your licensure?

21 A I know by our PMPs that it's -- it's offered
22 annually to the employees. I'm an employee myself.
23 But I know that I have to take so many CEs, you know,
24 it's -- it's tough to recall if it was one this way,
25 one the other. I know how that works very well.

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1 Q Okay. So again to clarify your answer in
2 the record, you're saying you, as you sit here today,
3 are not certain whether or not you received online
4 training on sexual -- the EPM's sexual harassment
5 policy either through EPM or through some industry
6 standard training?

7 A No. I'm certain I did it. Because --

8 Q Okay. You're certain you did it. You just
9 don't know if it was through EPM or through the
10 industry --

11 A No. I'm certain I did it. Because if not,
12 I'd lose my licenses.

13 Q Okay. But again being certain that you did
14 it, you're not certain whether it was something that
15 was provided and tracked by EPM. Or something that
16 came through some industry standard training.

17 A Yes. Correct.

18 Q All right. Same question for 2021. Do you
19 recall receiving any training provided by Equity Prime
20 Mortgage online on its sexual harassment policy in
21 2021?

22 A Myself?

23 Q Yes, sir.

24 A Or in general? The company?

25 Q You.

1 A Like I said, I'm not sure if it was through
2 that or it was through my CE classes that, you know,
3 depending on how somebody can take an argument, you
4 can say that that was through EPM as well. Because
5 EPM is who pays and provides those classes for CEs for
6 all of us that are licensed.

7 So I'm not sure if it was EPM's or if it was
8 the other one. But they, kind of, work in
9 conjuncture.

10 Q Okay. Can you tell me what is the provider
11 of the industry sexual harassment policy that you have
12 been referring to that you must take in order to
13 maintain your licensure?

14 A I forget. They change on who all the CEs we
15 take 'cause that's always a negotiation depending on
16 what the company takes. And sometimes -- some of the
17 classes, some of the CEs are met because of
18 conferences. And then workshops. That's talked about
19 because that's a subject that's talked about
20 extensively.

21 I mean, when we talked about my CMB
22 certification, that was a huge part of it. And I have
23 to keep certifications on those hours every year. So
24 it is not a subject that is not addressed early and
25 often.

1 Q Right. Okay. So how do you report having
2 received sexual harassment training to your licensing
3 body or agency for the purposes of complying with the
4 requirement that you've described?

5 A It's a good question because I don't handle
6 it myself. That's all handled by Jim Lyons who's
7 under Jim Minghini.

8 Q And what is Mr. Lyons' position?

9 A Oh, Lord. Can I ask Seth if he can help me?
10 He may know it better than me.

11 Q Not on the record.

12 A Okay.

13 Q But maybe you guys can talk about it after
14 the fact.

15 A I want to say -- I mean, he's
16 essentially -- I know he's over licensing. He's
17 over -- he does a lot of compliance work. I mean,
18 he's -- he's a higher earner. So he's up there. I
19 just don't know. I don't know if it's director of
20 compliance.

21 Q That's okay. I appreciate the estimation.
22 So do I understand correctly that Mr. Lyons is the
23 person that would make the reports to your licensing
24 agency to confirm for them that you had received
25 the -- whatever CEs that you need to

1 complete -- annually to maintain your license?

2 A Yeah. He -- yes.

3 Q Okay. And as a part of that reporting that
4 Mr. Lyons does on your behalf, he would have also been
5 confirming for the licensing agency that you had
6 received the sexual harassment training that you've
7 described is required?

8 A Yes.

9 Q Okay. All right. So Mr. Lyons should have
10 the records that shows what training you received on
11 sexual harassment in what years?

12 A He'll have all the certifications and
13 everything approved because everything has to be put
14 in electronically. And then it has a past according
15 to the NMLS, which is the National Mortgage Licensing
16 System.

17 My licenses are all in there. And they're
18 up to date, and they'll show if anything is violated
19 or anything of that nature.

20 Q Okay. And you said that that's something
21 that he inputs online in the --

22 A He handles it for the whole organization.
23 'Cause when you are leading a lot of people in that
24 realm and it's very delicate, you've got to have a
25 point person.

1 Q Okay. And so when you say he does that for
2 the whole organization, he would handle gathering and
3 reporting the records of sexual harassment training
4 for any individual employed by EPM that has to
5 maintain this licensure?

6 A If it's in the states that they're required.
7 Not all states require it.

8 Q Okay. Does the state of Georgia require
9 that sexual harassment policy?

10 A I'm not sure.

11 Q Okay. And I believe you've you noted that
12 the state of Florida does require it?

13 A Florida does.

14 Q Okay. What about the state of New Jersey?

15 A Your guess is as good as mine. I just know
16 Florida is vital. So I can answer that. 'Cause
17 that's what they made me take when I took a test in
18 2008.

19 Q And what was the test that you took in 2008?

20 A To get your mortgage lender's license -- as
21 crazy as it sounds -- you had to pass back then what
22 was known as the mortgage broker's license. And part
23 of that was a three-day training in Florida and it had
24 to be the people that were shareholders.

25 So it had to be somebody that is owning

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1 shares, like myself. And one of the big subjects even
2 back then was what defines sexual harassment. And it
3 was almost a full day of the three-day class.

4 So you had to do that. You had to pass it.
5 And then you can go take the test, old school with
6 No. 2 pencil and Scantron as I remember. It's a true
7 story. And you had to pass it. And -- and that was
8 2008.

9 Q Okay. All right. So in order --

10 A Now I will say this for the record --

11 Q Sure.

12 A -- I don't know if the standards are still
13 the same in different states. You know, I
14 don't -- I'm not a regulator. I don't know what they
15 change or what they add or anything like that.

16 Q Okay. Understood. Now we talked earlier
17 about your knowledge of Equity Prime's sexual
18 harassment policy. Are you able to tell me what
19 Equity Prime's retaliation policy is?

20 A What?

21 Q Well, all right. Let me repeat that
22 question. First of all, to your knowledge, does
23 Equity Prime Mortgage have a policy related to
24 retaliation in the workplace?

25 A Like you can't retaliate? Or you should

1 retaliate? I'm confused as heck on this question.

2 Q Well, I am simply asking whether or not you,
3 in your role as CEO and president, have any knowledge
4 as to whether or not the company has any policy
5 relating to retaliation in the workplace.

6 A Like, I'm not sure if it's, like, anti-
7 retaliation. Or, like, pro. Like, the way you're
8 asking that question it's too open-ended. I'm not
9 sure.

10 Q Well, I don't -- I'm going to have to
11 disagree with you. In fact, I think it's a pretty
12 straightforward question.

13 Does the company, to your knowledge, have a
14 retaliation policy? Whether it's pro-retaliation or
15 anti-retaliation or any other, you know, qualifying
16 term, it's up to you to describe.

17 But my question to you is simply: To your
18 knowledge, does Equity Prime Mortgage have a policy
19 related to retaliation in the workplace?

20 A I'm not sure. That's a question for Jim
21 Minghini, our chief people officer.

22 Q Okay. Got it. All right. And then lastly
23 as it relates to Equity Prime's policies, to your
24 knowledge, does Equity Prime Mortgage have any policy
25 that instructs its employees on how to report either

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1 discrimination, sexual harassment, or retaliation in
2 the workplace to the extent that they experience it?

3 A And I would assume, but I don't -- you know,
4 assumption as they say makes an ass of you and me.

5 I know that in cases in the past people have
6 come to me and I've told them that this is not a
7 matter for me. You have to go to HR.

8 I would probably -- I don't know. I don't
9 know if there's a step-by-step process. I just know
10 that it has been talked and verbalized. So, but I
11 don't -- I'm not sure of exactly what's in the policy
12 and procedure there.

13 Q Okay. Understood. All right. In your role
14 as CEO and president, do you have any involvement
15 whatsoever in hiring employees?

16 A It depends.

17 Q Okay. On what does it depend?

18 A If they report to me.

19 Q Okay. So what positions report to you?

20 A You want them all?

21 Q Yeah. To the extent that you can
22 characterize them. You don't have to list them
23 individually if it's easiest.

24 A I was going to say, can I -- can I look at
25 my phone?

1 Q I would --

2 A I can list them all if I look at my phone.

3 I hate to say that but I can go to my Microsoft Teams,
4 and I can tell you everybody that reports to me.

5 Q Okay. I'm mostly looking for positions as
6 opposed to individual persons or --

7 A No. I was going to say positions. I don't
8 remember all the C's.

9 Q I have no problem with you looking at your
10 phone if you want to.

11 A Okay. It's easy that way. I rely more on
12 that.

13 Q It's not a memory test.

14 A Well, I -- I would leave something off. So
15 other question. What dates would you like me to tell
16 you about? Today? Things change. That's why I have
17 to ask.

18 Q Okay. That's a good clarification. Let's
19 talk about in 2019. To whom were the employees that
20 reported to you?

21 A I was just president then. I wasn't
22 president and CEO.

23 Q That's fine.

24 A God. Who? Oh, man. COVID brain.

25 Q Just an estimation.

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1 A I mean, I know sales reported to me. And we
2 have wholesale and retail then. I know -- oh, God.
3 Who is everybody? I mean, today it's a lot easier and
4 I can explain even once I became both. But 2019.

5 We had nobody in tech back -- well, we had
6 two or three people in tech. But our COO was over
7 that. He didn't report to me.

8 Compliance didn't report to me. Marketing
9 did report to me. But that's before we grew and it
10 became a C-level. Marketing. Sales. Business
11 development. Oh, God.

12 That's a great question. CFO. Chief
13 investment officer. That may be it. We were a lot
14 smaller back then.

15 Q Okay. So I believe that the ones that you
16 stated, just to make sure I followed you, were
17 marketing, sales, business development, retail, the
18 CFO position, and the CIO position, chief investment
19 officer. Is that correct?

20 A Correct.

21 Q Okay. And then that changed in March of
22 2020 when you became CEO and president?

23 A Mm-hmm.

24 Q Okay. Is that a yes?

25 A Yes. Yes. Sorry. Mm-hmm.

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1 Q All right. So tell me how that -- the
2 positions that reported to you changed in March of
3 2020.

4 A Every executive reported to me at that
5 point.

6 Q Okay. So every C-level position?

7 A [No audible response.]

8 Q Is that a yes?

9 A Yes. Sorry.

10 Q That's okay. How many C-level positions
11 does EPM have?

12 A Today?

13 Q Yes, sir. Well --

14 A Including myself?

15 Q -- from -- let's backtrack on that. From
16 March of 2020 to the present, how many C-level
17 positions? Yes. Including yourself.

18 A Oh, Lord. You're asking me great questions
19 'cause we've grown 500 percent. It's tough to keep a
20 pace. Today is easy as shit 'cause I can tell you
21 right now.

22 We didn't have a -- we didn't have a chief
23 strategy officer then. That -- that evolved after
24 March. COO did start reporting to me then. CIO still
25 did. CFO did. No. Shit. No. CFO started reporting

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1 to CIO. No. Not true. Not true. Not accurate.

2 Sales. You know, I have a chief retail
3 officer and a chief wholesale officer. That -- that
4 was definitely me, even though now it's called the
5 chief lending officer. But potato, potato again.

6 Can I look at my phone?

7 Q Sure.

8 A I'll remember what titles existed then. So
9 chief compliance officer started reporting to me. I
10 said COO. Correct?

11 Q You did. Yes, sir.

12 A And a few then. We've added some titles
13 after that. We've added some executive positions
14 after that with the growth of the organization.

15 Q After March of 2020?

16 A Mm-hmm.

17 Q Is that a yes?

18 A Yes. Sorry.

19 Q That's okay.

20 A I'm looking here.

21 Q Okay. So tell me the positions that were
22 added after March of 2020. Executive positions only.

23 A Chief growth officer. Chief of staff.
24 Chief technology officer. Chief people officer.
25 Chief strategy officer.

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1 Q Any others?

2 A Nn-mmm.

3 Q No?

4 A Nn-mmm. I mean, I think some titles
5 changed. Sort of got upgraded to C-level. But no.
6 No. Nothing.

7 Q All right. Good deal. So we talked about
8 in 2019, the only C-level positions that you mentioned
9 that reported to you were chief finance officer and
10 chief investment officer. And then when we talked
11 about the change in March of 2020, you added COO to
12 that.

13 Was that a new position in March of 2020?
14 Or just didn't report to you?

15 A No. That reported to my business partner.

16 Q Okay. So it just -- the position existed.
17 It just changed, the reporting structure in March --

18 A Correct.

19 Q -- of 2020?

20 A Correct.

21 Q Okay. If you will just let ask my question.

22 A Yes. Yes. Yes. Sorry. Yes.

23 Q It's okay. And then same question for chief
24 compliance officer. Did that position exist prior to
25 March of 2020?

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1 A It existed beforehand. Yes. It did. And
2 then, yes. After March 2020, it started reporting to
3 myself.

4 Q Okay. What about chief wholesale officer?
5 Did the position exist prior to March of 2020?

6 A No. That was created.

7 Q When was that position created?

8 A God. Before our first retreat which was
9 August. No. Wait. That was September. August 2020.
10 I was going to say probably August or July of 2020.

11 Q Okay. And then is the chief wholesale
12 officer the position that you described changing to
13 chief lending officer?

14 A Correct.

15 Q Okay. Understood. All right. And then you
16 also mentioned chief retail officer. Did that
17 position exist prior to 2020?

18 A No.

19 Q Okay. When was that position --

20 A In January of '21.

21 Q Okay. And let's see here. We talked about
22 the CFO. Okay.

23 THE REPORTER: What might help, too, is
24 if you give a bit of a pause between when she asks the
25 question and your answer just to --

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1 THE WITNESS: I'm trying to think. I'm
2 trying to -- a lot of these dates. There was a -- it
3 was my business partner leading basically. There's a
4 lot of nuance. Yeah. There was. And 2020 and 2021
5 were also an explosion in volume. So that brought
6 with it its own moving parts.

7 BY MS. RAGAN:

8 Q Okay. Understood. So my understanding is
9 the only positions that you have any involvement in
10 hiring for are positions that report directly to you.
11 Is that correct?

12 A That's correct.

13 Q Okay. And that would have been true
14 pre-March of 2020 and post-March of 2020 when you took
15 on the CEO role?

16 A Correct.

17 Q Okay. Did you have involvement in hiring
18 Tiar McCart?

19 A No.

20 Q Okay. Did you have any involvement in
21 hiring Mark Moloughney?

22 A Yes.

23 Q Okay. When did you hire Mark Moloughney?

24 A May 2020.

25 Q Okay. And can you just describe for me

1 generally what the process was through which you, I
2 guess, interacted with Mr. Moloughney for the purposes
3 of bringing him onto the company?

4 A He was recommended by my CIO and my general
5 counsel who both had known him for a long time at a
6 previous engagement. We had no tech department. We
7 were horrible at it. We had three people and it was
8 our number one Achilles heel.

9 So we had past people that tried to head up
10 tech and it always was going sideways. And they
11 recommended 'cause they said that they knew Mark. And
12 that's how it went down.

13 I interviewed him. And I agreed with their
14 assessment. And then we moved forward to hire him.

15 Q Okay. Who was the -- I think you said the
16 chief investment officer. Who was that person that
17 recommended Mr. Moloughney?

18 A Phil Mancuso.

19 Q Okay. And you said legal counsel also
20 recommended him. Is that Mr. Kreiner?

21 A Not recommended. But he knew him. So I
22 called him to check how he was and everything like
23 that.

24 Q Okay. Understood.

25 A Phil recommended him.

1 Q Okay. Understood. All right. And you said
2 you interviewed Mr. Moloughney. Are you aware of
3 whether or not anyone else in the company interviewed
4 Mr. Moloughney before he was hired?

5 A I mean, I wouldn't call it an interview. I
6 guess Phil Mancuso interviewed him.

7 Q Okay. And after you and Mr. Mancuso
8 interviewed Mr. Moloughney, you determined he would be
9 a good fit for the company?

10 A Correct. Yes. Sorry.

11 Q No. That's --

12 A Since correct is not a good enough one.

13 Q Actually, no. That's -- correct is fine.

14 A Okay.

15 Q Okay. Other than talking to Phil and Seth
16 about their interactions with Mr. Moloughney, you
17 interviewing Mr. Moloughney, and Phil interviewing
18 Mr. Moloughney, were there any other steps taken in
19 the process of determining that Mr. Moloughney should
20 be hired by EPM?

21 A Nn-mmm. I mean, they have to pass a
22 background check because the state of Georgia has very
23 strict rules. So HR has to do their part. So all
24 offers of ours are pending the -- God dang. You're
25 really racking my brain. The GCIC report that I

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1 believe is required for a background check.

2 Q Okay. And that background check report
3 checks for what information to your knowledge?

4 A Felonies is a big one. You cannot have a
5 felony. It doesn't matter if it was 20 years ago and
6 you were a foolish kid. It has led to some serious
7 challenges in the industry.

8 Now we've helped change that as an industry,
9 and I was a part of that. But we couldn't even hire,
10 say, a janitor in Washington State if they had a
11 felony and they touched no Georgia loans. That is a
12 very -- Georgia is one of the most stringent when it
13 comes to that.

14 So any felony. Doesn't really matter. If
15 it shows up, there's -- sadly, you can go work at a
16 bank. They don't follow -- they don't have to follow
17 the same criteria and they can get away with that.
18 That's what we usually recommend.

19 But yeah. No. That's -- that's very
20 important because in the past we've had to let go
21 people 'cause of that. Then we've gotten sued over it
22 even though it's a law. But whatever.

23 Q Okay. So the background check that you
24 described checks for felonies at any time. Or at
25 least it used to. What else does it check for to your

1 knowledge?

2 A I don't know. That's a good question. I
3 mean, the felony is such a hot button of sensitivity
4 that I'm a little bit -- vastly more aware of that one
5 over -- I don't know if it checks for credit. I'm not
6 sure. I don't -- I don't know. I'm not sure. I
7 mean, it does -- I mean, anything is on there.

8 But if it's a misdemeanor, you're okay. But
9 even if you've got -- I believe even if you've been
10 arrested and it was found not guilty, I think it shows
11 up. I don't -- I don't -- Georgia is so specific.

12 If you don't have those letters on your
13 report, they fine you a thousand per person. And you
14 have to run those annually, I believe. I believe.
15 Often.

16 Q Okay. To your knowledge, did either you or
17 anyone else that was employed by Equity Prime Mortgage
18 take any action to investigate Mr. Moloughney's
19 employment history as opposed to criminal backgrounds?

20 A What do you mean? Just that he had worked
21 at certain places to check his resume? What do you
22 mean?

23 Q Well, I mean any checking of any employment
24 history that he had, whether it be just checking his
25 resume. Whether it be confirming the status of his

1 employment or the reasons for the end of his
2 employment. Any issues that came up in any other
3 iterations of his employment, et cetera. Any --

4 A I -- I'm not sure.

5 Q It's a potentially broad question.

6 A I'm not sure if HR digs deeper, like the
7 current employer, to make sure there's no challenges
8 there. I'm not sure of that. I don't know the
9 procedures. I know today it's different. But we're
10 not talking about today.

11 Q That's right.

12 A So I mean, they vouched for many, many moons
13 together. I think they were altogether like eight,
14 ten years at one spot. And then, you know, yeah. I
15 don't -- I don't know if HR went besides that. But I
16 know, like I said, Phil and Seth knew him for a
17 substantial amount of years.

18 Q Okay. Did anybody at any point when you
19 were considering Mr. Moloughney for employment express
20 to you that he had had any history of claims of sexual
21 harassment or claims of inappropriate conduct towards
22 women in the workplace?

23 A No.

24 Q Okay. So understanding that you're not sure
25 whether or not HR did any investigation into Mr.

1 Moloughney's employment history, is it fair for me to
2 understand from your response that you yourself did no
3 investigation into Mr. Moloughney's employment history
4 other than speaking with Phil and Seth about their
5 experiences with him?

6 A That's fair. Yes. I can't, like I said,
7 comment about HR.

8 Q Understood. And if someone in HR had
9 investigated Mr. Moloughney's employment history, who
10 would that have been?

11 A Yeah. That was -- oh. No. He was
12 under -- no, no, no. He was under the prior HR person
13 that we had a huge problem with. It would have been
14 the prior one. It wasn't Nyree.

15 Q Okay. Would Mr. Minghini have been involved
16 in that? Or it would have been --

17 A It would have been our head of HR at the
18 time.

19 Q Okay. And that wasn't Mr. Minghini?

20 A Mr. Minghini is the chief compliance, like I
21 said. And Nyree was later on the dates. But before
22 that, it was a gal by the name of Melissa Rolfe.

23 Q You said Rolfe?

24 A Mm-hmm. R-O-L-F-E, I believe.

25 Q Thank you.

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1 A She's pretty famous.

2 MR. WILSON: Yes. She is.

3 THE WITNESS: She's pretty famous.

4 BY MS. RAGAN:

5 Q What is she famous for?

6 MR. WILSON: She's --

7 THE WITNESS: Her son was the --

8 MR. WILSON: Her son's a cop who killed
9 a kid.

10 THE WITNESS: And then --

11 MR. WILSON: Over at the Wendy's.

12 THE WITNESS: At the Wendy's and then
13 she -- we kindly put her on paid leave. And then
14 people lined up outside my door and told me about some
15 of her behaviors.

16 So I didn't tolerate it, especially
17 what she said about one female employee. And about
18 Jim Lyons, who is disabled. I wasn't tolerating it.
19 I knew that I was going to deal with shit. So we
20 terminated her.

21 And we got on Fox News and then we had
22 bomb threats and death threats and we had armed guards
23 to take care of everybody for an awfully long time.

24 BY MS. RAGAN:

25 Q Okay. What -- that's a lot to unpack. I'm

1 sure it was for you as well.

2 A It was. I felt really bad for the
3 employees.

4 Q All right. Tell me about the comments that
5 you described Ms. Rolfe making that you found to be a
6 terminable offense. I believe you said there was some
7 comments about female employees. Some comments --

8 MR. WILSON: I'm going to direct him
9 not to answer that. We're in litigation.

10 THE WITNESS: Oh. I fucked that up.
11 Pardon my language.

12 MR. WILSON: With respect to those
13 issues and I'm going to respectfully direct him not to
14 respond.

15 I mean, unless you're representing Ms.
16 Rolfe and ...

17 MS. RAGAN: No. I'm not. However,
18 he's -- the reason for me to ask that question is that
19 he's implicated questions about a woman and this
20 case --

21 MR. WILSON: Well, it had nothing to do
22 with sexual harassment.

23 MS. RAGAN: Well, I don't know that
24 though because I don't have the information.

25 MR. WILSON: Well, I --

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1 MS. RAGAN: Can we go off the record?

2 MR. WILSON: We can go off the record.

3 MS. RAGAN: Okay.

4 MR. WILSON: Okay.

5 THE REPORTER: We're off the record at
6 10:57 a.m.

7 (Off the record.)

8 THE REPORTER: We are back on the
9 record at 11:04 a.m.

10 BY MS. RAGAN:

11 Q Okay. The counsel for parties has agreed to
12 handle the questions regarding Ms. Rolfe without
13 questioning Mr. Perez further on that. So we'll move
14 on from that.

15 Okay. Ms. Rolfe came up because we were
16 talking about Mr. Moloughney's hiring. And so do I
17 understand that what you were saying is that Ms.
18 Melissa Rolfe would have been the head of HR at the
19 time that Mr. Moloughney was hired?

20 A Correct.

21 Q Okay. Understood. And do I understand
22 correctly that Mr. Moloughney was not working out of
23 the Atlanta location at the time that he was hired?

24 A No. He lived in Jersey.

25 Q Okay. And does Mr. Moloughney currently

1 work out of a New Jersey location?

2 A So okay. How technical do you want me to
3 get?

4 Q I just want you to answer my question.

5 A No. It's a technical one. That's why I
6 asked.

7 Q Okay. I'll let you choose. My question is
8 what location does he work out of?

9 A He's tied to home office. However, he works
10 predominantly out of Fort Myers.

11 Q Florida?

12 A Naples maybe. In that area.

13 Q Okay. And what's the home office? Is that
14 Atlanta?

15 A That's Atlanta.

16 Q Okay. Understood. When you say tied to
17 home office, you mean that --

18 A Executives that -- all executives that do
19 not live in Atlanta are tied to Atlanta.

20 Q Okay. So their home office would be
21 Atlanta, but they may work remotely from other
22 locations?

23 A Correct.

24 Q Understood. Okay. So anybody with a
25 C-title, their home office is technically Atlanta

1 office?

2 A We had to license Rhode Island. So that may
3 be the exception.

4 Q Okay. So if there are C-level employees
5 that work in Rhode Island, their home office would be
6 Rhode Island?

7 A I'm not sure. He may still be -- it's just
8 one of those. I'm not sure if he's still tied to
9 Atlanta. That's a great question for my CFO and how
10 licensing has to get pulled.

11 Q When you said he, are you referring to Mr.
12 Moloughney?

13 A No. I'm referring to my CFO. He's a he.

14 Q Understood. Okay. All right. Do you work
15 out of the Atlanta office?

16 A I do.

17 Q How often do you work in the office?

18 A Four days a week.

19 Q Okay. And that would have been the same
20 office that Ms. McCart worked out of. Is that
21 correct?

22 A I think she worked remote a lot. Not sure.
23 But yeah. She would have been tied to that.

24 Q Okay. When she worked in the office, she
25 would have been in the Atlanta office. Is that

1 correct?

2 A Unless she went to the Buckhead or one of
3 the other ones. I'm not sure if she ever did.

4 Q Okay. You said you think she worked
5 remotely a lot. Do you know how often she worked
6 remotely?

7 A No.

8 Q How often would you have been interacting
9 with Ms. McCart on an average basis? Interacting in
10 person I should say.

11 A I mean, we're kind of a tight floor. So we
12 interact a lot. And I try to say hello to everybody
13 and I try to be as engaging as possible. So I don't
14 know how to answer that. I don't know if you want to
15 say a good amount; not a good amount. I mean,
16 obviously people are sometimes wanting more of my time
17 and I can't give it. So I don't -- I guess that is
18 speculative to the individual.

19 Q Okay. Would you have interacted with her
20 daily?

21 A If she was there. I mean, at least a hello.
22 'Cause I do a -- like I said, it's kind of a dead
23 center area and I walk by and say hello to everybody
24 and talk to people.

25 Q Okay. How often would you have interacted

1 with her for the purposes of work? As opposed to
2 pleasantries?

3 A She would ask me questions about what's
4 going on in the industry from a high level especially
5 during COVID. You know, we were bringing lunches in
6 to all the employees. We were trying to keep it very
7 bubble-ish to avoid spreads.

8 There was a lot of fear at that time and it
9 wasn't just COVID. The industry was also almost on
10 the brink of going down. And I happened at the time
11 to be the MORPAC chairman for the industry. So I sat
12 on a lot of information and I was always sharing it
13 with everybody. So there was a lot of, are we going
14 to have an industry? What's going on here? A lot of
15 fear that generally a lot of people had. And I was
16 trying to provide as much information as I could.

17 Q Okay. What about on the day-to-day average?
18 As opposed to her asking you questions about the
19 overall industry, on the day-to-day operations level,
20 how often would you interact with Ms. McCart?

21 A Business?

22 Q Yes, sir.

23 A Probably -- I don't know, like, her role. I
24 don't know that side. I've never done it.

25 Q Okay. Understood. You wouldn't have been

1 directing her actions in any way?

2 A Oh, God. No. I wouldn't know what to
3 direct.

4 Q You wouldn't have been monitoring her
5 performance in any way?

6 A Not my duty.

7 Q As you sit here today, do you have any
8 knowledge about how Ms. McCart performed her job?

9 A Today?

10 Q Yes, sir.

11 A Or at the time?

12 Q Well, let's -- my question was for today.
13 So let's start there.

14 A Yes.

15 Q All right. Tell me about that.

16 A I know that the four months prior to her
17 termination she averaged two loans a month. That is
18 vastly underperforming.

19 Q How did you come to know that?

20 A Steve Carpitella did the analysis and the
21 data that the company put together.

22 Q Okay. And when did Mr. Carpitella do that
23 analysis?

24 A I'm not sure exactly when he took over
25 overseeing that 'cause we had some shifts. And it

1 wasn't just him. It was also Ali Karess [ph] who is
2 the senior vice president of ops. She's over that
3 over the retail side 'cause we have to keep separate
4 retail versus wholesale. I want to say that was mid
5 to late January.

6 Q Of what year?

7 A 2021.

8 Q Okay. What makes you say that that's when
9 it was that Mr. Carpitella did that analysis?

10 A 'Cause I knew he took over -- that was -- I
11 introduced him as the head of retail at our annual
12 conference in January. And that was one of our
13 realignments.

14 Q Okay. And was Ms. McCart at that annual
15 conference?

16 A I know she was at the party.

17 Q Was she at the conference where you
18 introduced Mr. Carpitella as the head of retail?

19 A I don't know if she was in the crowd.

20 Q Okay. What party are you referring to?

21 A It's that same -- we have an annual -- we
22 got rid of our Christmas party because employees voted
23 to have the day before Christmas off and MLK. And
24 they wanted us to have a full -- where everybody is
25 together instead of this place here so that there's

1 more inclusion and not certain areas.

2 So we started doing an annual conference
3 where we invite people throughout the organization.
4 And we bring speakers. And we bring -- we talk about
5 the numbers. We give out all our awards. So the
6 party was like our awards ceremony and gala you can
7 say. But we're not dressed up in tuxes or crazy
8 dresses. Just, you know, stuff like this.

9 Q Okay. When you say stuff like this, you're
10 referring to what you're wearing.

11 A Yeah. Like jeans. I mean, some people can
12 dressed up if they want. But just what I would I call
13 business professional today.

14 Q Okay. Do you know where the conference was
15 held in January of 2021?

16 A Yeah, yeah, yeah. It's always held here in
17 Atlanta.

18 Q And was the conference a multi-day
19 conference or was --

20 A Yes.

21 Q And where in Atlanta was the conference?

22 A That one -- oh. Wait. Are you talking
23 about 2021?

24 Q Yes, sir.

25 A That was -- the first half was held on our

1 floor in the back. And then the -- the gala and
2 everything was next door at the Westin that's in our
3 complex.

4 Q Okay. So what you're saying is that the
5 meeting part that was held in the EPM offices on the
6 floor in the back was the location at which you
7 introduced Mr. Carpitella as the --

8 A Correct. And then we sent out a video to
9 the whole organization making the announcement.

10 Q Okay. When did that video go out?

11 A I mean, that same day. And it was somewhere
12 in mid-January. Around there.

13 Q And how did you send that video out?

14 A Well, I didn't send it. The marketing team
15 did. I would say that they did it over the e-mail
16 system.

17 Q Okay. And who is the marketing team?

18 A Today or then?

19 Q Who would have been the employees in the
20 positions that would have sent this video out via
21 e-mail that you described?

22 A Who was in charge of -- I'm not sure. I've
23 forgot who was in charge of communication.

24 Q Okay. Can you name any of the employees
25 that would have been employed in the marketing roles

1 that would have been responsible for sending this
2 video out via e-mail?

3 A Who was there? That department was tiny
4 back then. It's not the size it is today. I'd have
5 to look it up.

6 Q You can't identify one employee that was
7 employed in the marketing team in January of 2021?

8 A Sent out the press release and everything
9 and the videos and the announcement online. I mean,
10 the only thing I can think of is Eric Skates. That's
11 it. I don't know the rest of the team back then.

12 Q Okay. So you're saying there was a press
13 release and a video. And both would have been sent
14 out --

15 A I'm not sure, but that's usually what the
16 procedure goes.

17 Q Okay. So the press release and the video
18 would have both --

19 A I know a company announcement went out. I
20 know that.

21 Q Let me get the question on the record.

22 A Oh. Sorry. Excuse me.

23 Q All right. So you're saying that there
24 would have been a press release and a video sent out
25 company-wide, and I believe you said online as well,

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1 introducing Mr. Carpitella as being the new head of
2 retail.

3 A Could have. I'm not sure if it did. I do
4 know that a communication internally, at least an
5 e-mail, went out announcing the promotion of Steve
6 Carpitella.

7 Q Okay. And to whom did that internal e-mail
8 announcing his promotion go?

9 A They always go to all users.

10 Q So all employees of the company?

11 A Correct. As long as they're on that e-mail,
12 which they should be, but you know. Knickknack stuff
13 happens.

14 Q And do you know when that e-mail went out?

15 A January.

16 Q Of 2021?

17 A Correct. And I'm pretty sure she was in the
18 crowd. Pretty sure she was.

19 Q You think she was in the crowd at the actual
20 meeting as opposed to just the party that you
21 described?

22 A Yeah. I'm pretty sure she was at the crowd.
23 I'm not 100 percent sure, but I'm -- I remember 'cause
24 there was 70 people back there.

25 And we did a lot of things about wellness

1 and my doctor was there and other things -- other
2 speakers were there. Janine Driver was there.

3 So I believe she was in the crowd. Because
4 it was open to the people on the floor if they wanted
5 to come back and forth. And a lot of people would
6 work and then come back for one speaker. But she was
7 a part of the festivities so she knows about that.

8 Q Okay. All right. Okay. And you said that
9 it was Mr. -- we were talking about your knowledge of
10 Ms. McCart's performance. Do I understand correctly
11 that you did not have any knowledge about -- any
12 concerns about her performance at the time that she
13 was employed?

14 A What do you mean exactly? Like, ongoing
15 monthly or?

16 Q Well, my understanding is that your
17 testimony a moment ago was that as you sit here today
18 you now know that --

19 A Mm-hmm.

20 Q -- Ms. McCart was underperforming --

21 A Mm-hmm.

22 Q -- as a processor. Is that correct?

23 A That was brought to my attention by Steve
24 who reports to me.

25 Q Okay. When did Mr. Carpitella report to you

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1 that Ms. McCart was underperforming?

2 A It was either late January or early
3 February.

4 Q Okay. And how did he report to you in
5 either late January or early February that Ms. McCart
6 was underperforming?

7 A He explained to me his one-on-one with her.
8 And then he said that he was having her meet with Ali.
9 So I'm not sure if he met with Ali.

10 I'm not sure if he talked to her first and
11 then Ali 'cause that was the introduction into who's
12 the new leadership you're under 'cause she was going
13 to report to Ali. And then Steve is over all that.
14 And he vetted through it 'cause he's very thorough.

15 And he also said that he was not sure that
16 she could perform at the level that he wanted. And
17 that she hadn't been performing and was basically
18 milking a check and not asking anybody for more
19 business when there was plenty of business to go
20 around. That's how it went down.

21 Q Okay. And so my question to you is how he
22 communicated these concerns to you. Was it via
23 e-mail? Was it in person? Was it over the phone?

24 A We do all one-on-ones or Zooms. I'm not
25 sure if there's stuff in writing.

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1 Q Okay. So you would have had a meeting via
2 Zoom with Mr. Carpitella sometime in late January or
3 early February wherein he explained what you just
4 described about Ms. McCart's performance?

5 A Yeah.

6 Q And did he explain to you how he reached the
7 conclusions that you just described about her
8 underperforming?

9 A He has access to all the tracking and
10 reporting and he can pull it 'cause that's how he
11 leads to make sure that people are meeting
12 their -- their numbers and meeting the standard.

13 Q And what did he explain to you that he
14 tracked or reports that he pulled in order to reach
15 that conclusion?

16 A They can check on how many files people work
17 on. And he says she's working on about two files a
18 month.

19 Q Okay. And what records was he pulling or
20 tracking to see how many files she was working on per
21 month?

22 A Our LOS, our loan origination software
23 system, named Encompass. And he did a four-month
24 backcheck history.

25 Q All right. When you say he did a four-month

1 backcheck history, what does that mean?

2 A He checked to see her performance for the
3 four prior months.

4 Q So from January -- at some point in late
5 January or early February, Mr. Carpitella looked
6 backwards four months to see how much Ms. McCart had
7 been performing?

8 A Correct. Yes. Sorry.

9 Q So if we assume that it was in late January
10 or early February when he did that check, he would
11 have checked going back -- let's see -- to October --

12 A Or possibly --

13 Q -- approximately October or --

14 A Or possibly September.

15 Q -- September.

16 A Yeah. Somewhere around there.

17 Q Okay. All right. And what was the standard
18 that Ms. McCart should have been meeting if she had
19 been performing up to his expectations?

20 A I'm not sure what his expectations are. But
21 do you want me to tell you my speculation or industry
22 average?

23 Q Sure. What were the expectations that Ms.
24 McCart was expected to meet in order to be performing
25 well in the role of processor?

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1 A I'd say -- see I'm talking on behalf of
2 Steve. So I'm not sure if I can say that.

3 I would say that industry average is the
4 average person in her role does 25, 30 loans a month.

5 Q In a processing role at EPM the processor
6 should be closing 20 to 30 loans a month?

7 A Correct.

8 Q And how does the processor have the ability
9 to control the number of loans that they process per
10 month?

11 A Files are assigned to them.

12 Q And by whom are the files assigned?

13 A Not sure. Great question.

14 Q In this lawsuit, Jason Callan has testified
15 that the employees in the processing role had no
16 ability to control the number of files that they
17 closed per month because the number of files that were
18 presented to them for closing was determined by the
19 employee that was next up the chain, the loan officer.

20 The loan officer was the position that
21 actually controlled the number of files that came to a
22 processor for closing.

23 Is Mr. Callan incorrect?

24 MR. WILSON: I'm going to object. I'm
25 not sure that that accurately reflects the record.

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1 MS. RAGAN: Okay. Off the record for a
2 moment --

3 THE REPORTER: We are off the record --

4 MS. RAGAN: -- if you agree.

5 THE REPORTER: -- at 11:21 a.m.

6 (Off the record.)

7 THE REPORTER: Back on the record at
8 11:26 a.m.

9 MS. RAGAN: Thank you so much. So
10 sorry to interrupt.

11 BY MS. RAGAN:

12 Q I'm going to repeat and rephrase the
13 question for you to allow you to answer it. And well,
14 let me just say it like this: If Mr. Callan in this
15 lawsuit has already testified that any employee in the
16 processing position, including Ms. McCart, was not in
17 the position to be able to control the number of loans
18 that came to them such that they also did not have the
19 ability to control the number of closings that they
20 did per month, is he mistaken?

21 A What do you mean by mistaken?

22 Q Sir, I think you know what the definition of
23 the word mistaken is. I'll allow you to use your
24 everyday knowledge and definition of the word
25 mistaken.

1 A See, I'm also wondering about control.
2 Because originators put in files. So if there's less
3 originations, then yes. If there's more originations,
4 then no. But there's also -- it also depends on a lot
5 of factors.

6 So it's not that I'm going to say he's
7 mistaken. I'm just going to say that a lot of things
8 are circumstantial.

9 Q Okay. Let me ask you this then. If Mr.
10 Callan has testified in this matter specifically that
11 Ms. McCart had no metric or number of closings that
12 she was expected to meet on any measurable
13 basis -- either monthly, weekly, or et cetera -- as a
14 result of the fact that she did not control the number
15 of loans that were presented to her, is he mistaken?

16 A I can't really comment for Mr. Callan.
17 He's over that department.

18 Q Meaning he's the person that actually would
19 be in the position to make the decisions about what
20 the performance standards for the processing role
21 would have been?

22 A No. Not necessarily because you know, like
23 I said, Ali earlier who is over -- she's the senior
24 vice president of ops. She was the one that when they
25 moved her over that met with Ms. McCart and not only

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1 looked at her performance but also looked at her
2 knowledge base of the job as well. So not
3 necessarily. So that's why I say that.

4 Also I believe McCart was in another role at
5 one point. I'm not sure. I know that she moved a few
6 roles from what I've been told. So I'm not sure who
7 assigned those at those times either.

8 So maybe when she was with Jason. But like
9 I said is, that is up to Jason. I can't. Because he
10 reports to me at that time, so.

11 Q Okay. So during the period of time that Ms.
12 McCart was in the processing role, which is the role
13 that we're talking about, your testimony is that Mr.
14 Callan would have been the person making the decisions
15 about the number of loans that she should have closed
16 per month in order to have acceptable performance?

17 MR. WILSON: Objection as to form.

18 You can answer.

19 THE WITNESS: Oh. Didn't she have
20 other jobs too?

21 BY MS. RAGAN:

22 Q We're asking you about the processing role
23 that was defined in my question. Please answer my
24 question as asked.

25 A Can you rephrase it again?

1 Q I'd be glad to. We're talking about for the
2 purpose of this question the period of time that
3 Ms. McCart was in the processing role.

4 A Mm-hmm.

5 Q Okay?

6 A Mm-hmm. I don't know how long she was in
7 it.

8 Q Again, I'm not asking you how long. During
9 the period of time that she was in the processing
10 role, Mr. Callan would have been, based on your
11 testimony, the person that made the decision about
12 what number of loans she should have been closing per
13 month in order to have acceptable performance.
14 Correct?

15 A What I'll say again is I'm not sure if he
16 was doing it. I cannot comment for him. It could
17 have been Ali or somebody else.

18 Q What I am asking you about -- the reason I'm
19 phrasing the question this way is because you
20 testified a moment ago that you couldn't speak to that
21 because you couldn't speak for Mr. Callan. So given
22 that Mr. --

23 A I don't --

24 Q -- Callan is the person that you're
25 referring to would be the person that should speak on

1 this issue, wouldn't you agree with me that he's also
2 the person that would be setting the measurables for
3 the processing role?

4 A Was he even over processing then?

5 Q Please answer my question, sir.

6 A I'm still trying to remember. I'm not sure
7 if he's mistaken or not. I don't know.

8 Q We've moved on from that question. My
9 current question is: Based on your testimony as you
10 sit here today --

11 A Mm-hmm.

12 Q -- that you can't speak for Mr. Callan
13 because he's the person that would make those calls,
14 is it correct for me to understand that Mr. Callan
15 would have been the supervisor over Ms. McCart and the
16 other processors determining what any measurables --

17 A He wasn't over retail processing then.

18 Q Why is it that you testified a moment ago
19 that Mr. Callan would have been the person to make
20 that call then?

21 A What? On a role or what?

22 Q On the measurables. On the number of --

23 A Steve Carpitella did the measurables.

24 Q All right. Let me get the question on the
25 record.

1 A Okay.

2 Q Do I understand you correctly that you
3 testified just moments ago that Mr. Callan is the
4 person that would have made the call -- I believe
5 that's the language that you used -- about the number
6 of loans that a processor should have been closing in
7 order to --

8 A Yes. Him or somebody that reports to him.

9 Q -- have an acceptable performance? Okay.

10 A I don't know if it was him physically is
11 what I was trying to say.

12 Q Understood. So given that that was your
13 testimony -- that he is the person that makes that
14 call -- isn't also stand to reason that if Mr. Callan
15 testifies that there were no measurable standards for
16 a processor as it relates to the number of loans they
17 had to close per month in order to have acceptable
18 performance, then I can rely on his testimony as to
19 that number. Is that correct?

20 MR. WILSON: Objection. Compound
21 question.

22 MS. RAGAN: You can answer the
23 question.

24 MR. WILSON: You can answer.

25 THE WITNESS: Okay. Repeat it again

1 'cause that had, like, four parts.

2 MS. RAGAN: See how instructing the
3 witness works? When you say compound, he picks up on
4 multiple parts.

5 MR. WILSON: Well, I'm -- that's fair.

6 THE WITNESS: I picked up on it before
7 that.

8 BY MS. RAGAN:

9 Q My question to you is: Given that you have
10 confirmed in your testimony today that Mr. Callan is
11 the person who would have been making the call as to
12 the number of loans that a processor should close per
13 month in order to have acceptable performance, it also
14 stands to reason that he is correct when he
15 testifies -- if he has testified that there was no
16 such measurable standard for the processor role.

17 MR. WILSON: Objection.

18 You can answer.

19 THE WITNESS: Okay. Man. Y'all are
20 confusing me. You can tell I never studied law. I'm
21 waiting for a sustained or overruled. That's how much
22 I've watched it on TV and I know. So y'all -- y'all
23 got me all confused here.

24 I would say that yes. Jason sends the
25 measurable but that's -- there's a lot more to that.

1 BY MS. RAGAN:

2 Q Okay. What more is there to that?

3 A There's a code of conduct. You know, if
4 you're not getting enough work, files were overflowing
5 out the wazoo. So she maybe not in her one, little
6 realm couldn't have had files. But that's why we
7 moved it under Steve Carpitella and everything.

8 You know, I would venture to say if somebody
9 is just sitting around and collecting a check,
10 that -- and not working, they would raise their hand
11 so that they wouldn't get cut when it was realized
12 what they did. So that's what I say to that.

13 But would Mr. Callan have measurables?
14 That's -- that's up to him.

15 BY MS. RAGAN:

16 Q Okay. You said Ms. McCart was sitting
17 around collecting a check.

18 A Mm-hmm.

19 Q Based on what information did you reach that
20 conclusion?

21 A Two loans a month for four months in a row.
22 Or maybe three. Whatever it is. Very low number.

23 Q Okay. And you said there were files
24 overflowing. How many files were sent to Ms. McCart
25 in that four-month period that you said she did two

1 per month?

2 A No idea.

3 Q Okay. So do you have any knowledge as you
4 sit here today that suggests that she received more
5 than two files per month to close?

6 A I don't know if she did or didn't.

7 Q Okay. Would you agree with me that if she
8 did not receive more than two loans to close per
9 month, she could not have closed more than two in a
10 month?

11 A Nope.

12 Q You don't agree with that?

13 A Nope.

14 Q Okay. Tell me why.

15 A 'Cause we have a policy that if there's not
16 enough work that you raise your hand and there's other
17 areas to do work. And she did not.

18 Q Okay. How do you know that?

19 A Because Steve Carpitella asked her. And
20 Steve Carpitella also asked her about her job
21 knowledge, and she didn't know what she was doing
22 there either. And so did Ali.

23 Q And so your knowledge based on the
24 fact -- your knowledge of the statement that Ms.
25 McCart never raised her hand to ask for more work is

1 based on what Steve Carpitella told you?

2 A And the data that he showed.

3 Q Okay. What data did he show you?

4 A That she was averaging two or whatever loans
5 per month. Same one I've been saying about 19 times.

6 Q So that data that you looked at showed you
7 that Ms. McCart didn't raise her hand and ask for more
8 work?

9 A Correct.

10 Q How did it show that? What was the
11 information within the data that specifically showed
12 Ms. McCart never asked for more work?

13 A Two files a month. My 12-year-old could
14 probably do that.

15 Q Okay. So my question is: What was the data
16 that you saw that showed you that Ms. McCart never
17 raised her hand and asked for more files?

18 A Files worked on and fundings.

19 Q And what did that data show you? How many
20 files was McCart working on? And how many were
21 funded?

22 A The same ones I've been saying. Two. Two
23 to three. Something like that. It was very low.

24 Q Okay. And that was two to -- the data that
25 you looked at showed Ms. McCart was working on two to

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1 three and funded two to three per month between the
2 period of time of approximately September or October
3 of 2020 and late January, early February of 2021?

4 A Correct.

5 MR. WILSON: You have to give a verbal
6 answer.

7 THE WITNESS: Yes. Sorry.

8 MS. RAGAN: That's all right.

9 THE WITNESS: I'm -- I'm used to
10 correct over yes or no.

11 BY MS. RAGAN:

12 Q And who showed you that data?

13 A Steve Carpitella.

14 Q Okay. How did Steve provide that data to
15 you?

16 A Well, it was all verbal in our meetings.

17 Q Okay. So he quoted these numbers to you?
18 You never actually saw -- physically saw or looked at
19 any data?

20 A I don't look at reports.

21 Q I'm sorry?

22 A I don't look at reports. I trust the people
23 that report to me.

24 Q Okay. And specifically what Mr. Carpitella
25 told you is that from the period of approximately

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1 September or October of 2020 through late January,
2 early February of 2021 Ms. McCart was provided
3 approximately two to three loans and was working on
4 approximately two to three loans per month and funded
5 approximately two to three loans per month?

6 MR. WILSON: Objection.

7 You can answer.

8 THE WITNESS: Okay. Y'all are
9 confusing me.

10 Yes. Also Ali was involved 'cause they
11 both reinterviewed her.

12 BY MS. RAGAN:

13 Q Okay. So my question to you was about the
14 data you received. How was Ali involved in --

15 A She's the senior vice president of
16 operations.

17 Q I've got to get the question on the record.

18 A Oh. Sorry.

19 Q That's okay.

20 A I thought you said how.

21 Q I did say how. I just wasn't done with the
22 question.

23 The question that I asked you was about the
24 data you received. How was Ali involved in the data
25 you received?

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1 A Her and Steve pulled it. And then they
2 talked to Tiar about it.

3 Q Okay. When you say her and Steve pulled it,
4 you mean her and Steve -- Ali and Steve -- went into
5 this loan origination system, Encompass, pulled
6 some --

7 A Yes.

8 Q -- data report --

9 MR. WILSON: You've got to let her --
10 BY MS. RAGAN:

11 Q -- reviewed that data and then shared
12 verbally the information that they saw with you?

13 A Yes.

14 Q Okay. And that they shared that information
15 verbally with you in a Zoom meeting?

16 A Steve did. Not Ali. I just know she was
17 involved.

18 Q Ali was involved in pulling the data?

19 A Yes.

20 Q Steve was involved in communicating that
21 data to you?

22 A Yes.

23 Q And that communication happened in a Zoom
24 meeting sometime between late January or early
25 February.

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1 A [No audible response.]

2 Q Is that a yes?

3 A Yes. That's a yes.

4 Q And how do you and Steve set up your Zoom
5 meetings whenever you hold those?

6 A Every week. I have one-on-ones with
7 everybody that reports to me.

8 Q Okay. And is that something that appears on
9 your calendar every week?

10 A Yes.

11 Q And there's a standing Zoom link for those
12 meetings?

13 A Teams. But yes.

14 Q Teams. Okay.

15 A Zooms, most people just understand that
16 more.

17 Q Okay. So if I went back and looked at your
18 calendar from late January or early February there
19 would be a Teams meeting with a link to a Teams
20 virtual meeting --

21 A I don't know if we were doing Teams just yet
22 then. I know we're doing it today, but it would have
23 been a Zoom.

24 Q Okay. Either Zoom or Teams --

25 A Correct.

1 Q -- link will be on your calendar from at
2 some point in late January or early February where you
3 met with Mr. Carpitella and he shared this data with
4 you verbally?

5 A Correct.

6 Q Okay. All right. And then you also said
7 that -- well, let me back up.

8 Did Mr. -- in this meeting in late January
9 or early February, did Mr. Carpitella talk to you
10 about any other concerns about the performance of
11 anyone else in the processing role?

12 A He talked about -- he was -- because he was
13 taking it all over. He was reinterviewing and looking
14 at everybody.

15 Q Okay. So in the same meeting in late
16 January or early February, he expressed to you
17 concerns about everyone in the processing role.

18 A If there was a concern. We talked quite a
19 few.

20 Q All right. Who all did he express concerns
21 to you about other than Ms. McCart?

22 A I don't recall their names. But I know one
23 lady just 'cause her and I would talk Spanish
24 together. A Latina lady.

25 Q And who is that?

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1 A I don't remember her name.

2 Q You just said you did remember her name.

3 A She was a Latina lady.

4 Q That's all you remember about her?

5 A So we would talk Spanish. I don't remember
6 her name 'cause if I tell you it, it would probably be
7 wrong.

8 Q Is it -- was her name Jayza [ph]?

9 A I did talk to Jayza [ph] a lot. No. I know
10 Jayza [ph]. No. This was -- God. What is her name?
11 Her sister worked. Now you're making me rack between
12 her sister and her. I want to say her last name was
13 Padilla.

14 Q Is it Delsi [ph] Padilla?

15 A Yes.

16 Q Okay. So in the same meeting that he
17 expressed to you concerns about Ms. McCart, Mr.
18 Carpitella also expressed concerns to you about
19 Delsi [ph] Padilla?

20 A Yes.

21 Q Okay. And what concerns did he express to
22 you about Ms. Padilla?

23 A Knowledge base.

24 Q All right.

25 A Jayza [ph], he didn't. He spoke well of

1 her.

2 Q All right. So the only concerns he
3 expressed about Ms. Padilla was knowledge base?

4 A Knowledge. He said that she had closed
5 more, but she had also raised her hand to get more
6 help. So he didn't have an issue with that. He just
7 said -- he didn't know if it could be up to the
8 standard because Steve's standard is -- and Ali's
9 standard is -- very high.

10 Q And what was their standard?

11 A They're just pros at it. I can't explain it
12 to you, but they have this whole system and how much
13 they have knowledge that they just -- they expect a
14 lot more out of everybody.

15 Q Okay. But didn't you tell me earlier that
16 their standard was 20 to 30 loans cleared for a
17 processor per month?

18 MR. WILSON: Objection.

19 A Some of theirs do 50. So I would say that
20 that's -- I'm speculating on their standard. It also
21 depends on what type of loans. Some loans are easier
22 than others.

23 Q All right. But to your knowledge, the only
24 concerns that Mr. Carpitella expressed to you about
25 Ms. Padilla was her knowledge base, not the number of

1 loans that she was closing per month?

2 A No. 'Cause she had raised her hand.

3 Q Okay. And to whom did she raise her hand?

4 A I'm not sure to who.

5 Q Okay. And how --

6 A I couldn't tell you.

7 Q And how did Mr. Carpitella know that she had
8 raised her hand?

9 A Inquiries. Everybody talks, especially on
10 the retail side. People talk. They bounce ideas.
11 His area in Jersey produces a lot. So a lot of people
12 are always reaching out because they're the best of
13 the best.

14 You know, a lot of people yearn to go work
15 under that group and that's part of the reason he got
16 the promotion and was taking over the whole equation.
17 And that was even getting removed and handled by him.

18 Q So your testimony is that Mr. Carpitella
19 expressed to you that he had made inquiries to other
20 employees of EPM who confirmed that at some point Ms.
21 Padilla had been asking to have more loans come to her
22 to close?

23 A I don't know if he made inquiries. That's
24 just what he told me.

25 Q Okay. Yeah. My question was about what he

1 told you. So your --

2 A I don't know if he talked to other people or
3 how he came to it. I don't know if he also -- there's
4 a lot of ways to track online digitally to see if
5 people are moving in other files and doing things.

6 I'm not sure how he came to that conclusion.
7 I can't talk for him. I just know what he expressed
8 to me.

9 Q Okay. So what he expressed to you is that
10 he made inquiries around EPM that confirmed to him
11 that Ms. Padilla had been asking for more files to be
12 sent to her so that she could close them?

13 A Yes.

14 Q Okay. Did he tell you who he made inquiries
15 to?

16 A No.

17 Q Did he tell you how many loans Ms. Padilla
18 was closing per month?

19 A No.

20 Q Just that he didn't have any concern about
21 the number?

22 A Correct.

23 Q All right. Any other concerns that Mr.
24 Carpitella expressed to you about Ms. Padilla's
25 performance other than knowledge base?

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1 A Not that I recall.

2 Q Okay. All right. Any other employees in
3 the processing role that Mr. Carpitella explained to
4 you he had concerns about?

5 A He explained some of the other people
6 throughout the organization, but I don't remember all
7 their names.

8 Q Okay. As you sit here today, the only two
9 people that you can recall that Mr. Carpitella told
10 you that he had concerns about were --

11 A He had some other people in his --

12 Q Please let me get the question on the
13 record.

14 MR. WILSON: Wait.

15 THE WITNESS: Sorry.

16 MR. WILSON: Let her ask the question.

17 THE WITNESS: Sorry.

18 BY MS. RAGAN:

19 Q As you sit here today, the only individuals
20 that you can recall Mr. Carpitella expressing you
21 concerns about their performance were Ms. McCart and
22 Ms. Padilla?

23 A By name, yes. But I didn't even remember
24 Delsi's [ph] name. You had to remind me.

25 Q Well, you remembered Padilla. And I gave

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1 you her first name.

2 A Well, I had to guess. I had to speculate
3 backwards. I know that he had mentioned some of the
4 people that he was overseeing. I know he had
5 mentioned people in Orlando. He had mentioned other
6 locations.

7 Do I remember all their names? No. I just
8 know that they have removed people and upgraded the
9 team.

10 Q Okay. When you say removed people and
11 upgraded the team, what do you mean?

12 A Termination. Or some people left on their
13 own accord or they resigned.

14 Q Okay. And when you say they removed people,
15 you're referring to Mr. Carpitella?

16 A Or Ali. Yes.

17 Q Who -- other than Ms. McCart -- do you
18 allege that Mr. Carpitella removed because of concerns
19 about performance?

20 A That's a good question for HR.

21 Q Okay. So as you sit here today, the only
22 person that you know that Mr. Carpitella removed
23 because of performance concerns was Tiar McCart?

24 A No.

25 Q Well, then answer my question.

1 A He didn't remove her. I made the call.

2 Q Okay. You made the decision?

3 A Yep. He gave me the recommendation.

4 Q I see. When did he make that recommendation
5 to you?

6 A He reinterviewed her. Ali interviewed her.
7 Then he interviewed her. Then Ali. They went through
8 a few interviews. Early, mid-February.

9 Q Okay. And how did he make that
10 recommendation to you?

11 A In our one-on-one.

12 Q All right. So this is a separate --

13 A We had many discussions around it all.
14 'Cause like I said, I said look, it's you to run it.
15 You've got to make some recommendations. I know that
16 you're inheriting this.

17 So in other words, I can help you along the
18 way and if I've got to make the tough decisions for
19 you, I get it. It's not your mess to clean up. It's
20 mine. So I've got to make the tough decisions that
21 are never fun as CEO, but you got to do it.

22 Q Okay. So in early to mid-February in a
23 separate Zoom meeting or Teams meeting between you
24 and --

25 A It could have been a phone call too. 'Cause

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1 he calls me. Me and him talk three, four times a day.

2 Q Okay. If you'll just let me get the
3 question --

4 A Oh. Sorry.

5 Q -- on the record, I'll be glad to let you
6 answer it however you'd like even if it's
7 clarifying my question, which I do appreciate you
8 doing.

9 Do I understand correctly that in early or
10 mid-February you had a separate Zoom meeting or
11 potentially phone call with Mr. Carpitella wherein he
12 now was expressing to you not just concerns about Ms.
13 McCart's performance but was specifically recommending
14 to you that her employment be terminated?

15 A Yes.

16 Q Okay. And as you sit here today, you're not
17 sure whether it was a telephone call or a Teams
18 meeting or a Zoom meeting?

19 A I did not.

20 Q Okay. But you are certain it was in early
21 to mid-February?

22 A Yeah.

23 Q And you are certain that this would have
24 been a separate meeting after the initial meeting
25 where he recommended to you that or he -- excuse

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1 me -- expressed to you he had concerns about Ms.
2 McCart's performance?

3 A Yes.

4 Q Okay. All right. What action did you take
5 after Ms. McCart -- excuse me -- Mr. Carpitella
6 recommended to you that Ms. McCart should be
7 terminated?

8 A I couldn't.

9 Q Excuse me?

10 A I couldn't take any action.

11 Q Okay. Why not?

12 A Because after that is when she sent out her
13 e-mail, and there had to be an investigation.

14 Q Okay. So your understanding is that Mr.
15 Carpitella recommended to you in early to mid-February
16 that Ms. McCart should be terminated. And after you
17 received that recommendation Ms. McCart made a
18 complaint about sexual harassment?

19 A [No audible response.]

20 Q Is that a yes?

21 A Correct. Yeah. That's a yes.

22 Q Okay. When did you first receive notice of
23 Ms. McCart's complaint of sexual harassment?

24 A She sent an e-mail right around that same
25 time that had me on it. A few people on it. I don't

1 know everybody that was on it.

2 Q Okay. So you were copied on an e-mail that
3 was sent directly from Ms. McCart --

4 A Yes.

5 Q -- to you.

6 A I don't know if it was to me or to HR. I
7 was on it.

8 Q Okay. So you were copied on an e-mail that
9 Ms. McCart sent to either HR or someone else?

10 A Yes. Copied or in the -- if it wasn't
11 cc'ed, just to be clear. It may have been -- I may
12 have been in the To line. I wasn't bcc'ed. I can
13 tell you that much.

14 I was not -- you know, sometimes people try
15 to throw people under the bus with the bcc move.
16 We've all been there.

17 Q Okay. All right. And why is that you
18 didn't immediately act to terminate Ms. McCart's
19 employment once Mr. Carpitella had recommended that
20 she be terminated?

21 A I don't know the exact dates, but they were
22 almost eerily I'll just say coincidental. Very close
23 to each other.

24 Q Mm-hmm. Okay. So you're saying you didn't
25 have enough time to act to terminate her employment?

1 A Yep. I called Legal 'cause I always call
2 Legal just to get their thoughts. And then there's
3 always a process. 'Cause we try to end things
4 amicably. But that's not always the case.

5 Q When you say you called Legal, what were you
6 calling to get their thoughts about? Her termination
7 or her sexual harassment complaint?

8 A Well, before I could call Legal is when that
9 came out. So then I said, you know, here's what's
10 going on. But here's what was going on previously.
11 And we have all the information. We said we had to
12 let the investigation work itself out.

13 Q Okay. So you called Legal after receiving
14 the sexual harassment complaint? Not in response to
15 receiving the recommendation for termination?

16 A Correct. I didn't have enough time to call
17 them about the termination.

18 Q Okay. And that was a telephone call as
19 opposed to a Teams meeting or a Zoom meeting or
20 something of that nature?

21 A Yes. Seth never likes to get on video. I'm
22 joking. Sorry. I had to -- I had to have some fun in
23 there.

24 Q That's okay. It wasn't a meeting in person?

25 A He lives in Florida.

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1 Q And you contacted Seth for the purpose of
2 receiving legal advice related to the sexual
3 harassment claim?

4 A After our internal investigation had been
5 done. I mean, we talked throughout the whole time.
6 But we also talked about it throughout and afterwards.

7 Q So I want to clarify this because my
8 understanding of your initial response to that
9 question is a bit different than what you just said.
10 So let's clarify.

11 A Okay.

12 Q When is the first time you contacted legal
13 counsel related to Ms. McCart, whether it was as a
14 result of the recommendation that she be terminated or
15 the sexual harassment claim?

16 A It was -- like I said, it was around -- the
17 first communication was around those times. 'Cause
18 Seth is very strict, we will say, on making sure that
19 people sign releases.

20 Q Okay. So when you say around that time,
21 when I first asked you this question my understanding
22 of your response was that you had called shortly
23 after, very close in temporal proximity to receiving
24 Ms. McCart's complaint.

25 But what you just testified to was that it

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1 was after the internal investigation was concluded.

2 So I'd like you to --

3 A I did both.

4 Q -- clarify.

5 A I did all of it. I -- I talked the whole
6 time with him. I had to.

7 Q Okay. So I'm asking about the first
8 occasion that you contacted him for advice related to
9 Ms. McCart.

10 Was the first occasion shortly after
11 she [sic] received her complaint? Or after the
12 internal investigation was completed?

13 A Well, I talked to him right after Steve had
14 made his recommendation to see if we needed to do some
15 severance or something like that.

16 And then we were leaving for Florida. And
17 coincidentally is when her e-mail went out, when all
18 the executives were going to be together. So that
19 obviously stopped it in its tracks. Couldn't really
20 do anything after that.

21 Q Okay. So the first occasion that you
22 reached out to Mr. Kreiner for the purpose of
23 receiving advice related to Ms. McCart was after you
24 received Mr. Carpitella's recommendation?

25 A And I had made the determination. Correct.

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1 Q Okay. And you made the determination that
2 she should be fired?

3 A Yes.

4 Q Okay. After Mr. -- we're going to establish
5 a timeline here. After Mr. Carpitella recommended to
6 you that Ms. McCart been fired and you had made the
7 determination that you would proceed as he
8 recommended, you contacted Mr. Kreiner for advice
9 related to the termination.

10 A Correct.

11 Q After you had contacted Mr. Kreiner to
12 receive advice related to the termination, Ms. McCart
13 submitted a written complaint in an e-mail that she
14 copied you on alleging sexual harassment.

15 A Yes. It was on that Thursday. I remember.

16 Q Okay. Thursday in what month?

17 A Can I look at my phone?

18 Q Absolutely.

19 A All right.

20 Q In fact if you're able to determine an exact
21 date by looking at your phone, that would be --

22 A Oh. I can. 'Cause I know when we all went
23 to my beach house to do our quarterly retreat.

24 '21. '21. '21. What year is this? '21.

25 No. That's April.

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1 25th of February. I have nailed it. I
2 remember. I'm pretty sure it was that morning.

3 Q That's the date that you received the e-mail
4 from Ms. McCart?

5 A Correct.

6 Q Okay. So --

7 MR. WILSON: Excuse me. Do you have a
8 question pending right now?

9 MS. RAGAN: I do. We're not taking a
10 break right now. I do. Yeah. We're going to finish
11 this line of questioning and then we're going to take
12 a break if you'd like.

13 MR. WILSON: Okay. No. Go ahead.

14 BY MS. RAGAN:

15 Q Okay. All right. So you received the
16 e-mail that you expressed regarding Ms. McCart's
17 sexual harassment complaint on February 25, 2021. And
18 you're certain of that date because that's the date
19 that you were going for the retreat?

20 A Well, somebody told me when we were all
21 flying out. Hey. By the way, check your e-mail.

22 Q Okay. So you hadn't seen it, but someone
23 said there's this e-mail in your inbox?

24 A Hey, dude. Look what's going on.

25 Q Yeah. Who was that that told you that?

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1 A Jason Callan.

2 Q Okay. And what did you do next after being
3 informed that there was this e-mail that you were
4 going to have to look --

5 A Jim was with us. And that's when he was
6 still over HR. So I went to him and said hey, look.
7 HR has got to investigate and we got to look at
8 everything and anything.

9 Q Okay. And how did Mr. Minghini respond?

10 A He understood. I mean, he had
11 Nyree -- 'cause that was the new HR person -- start
12 the investigation. And he told Mark 'cause he was
13 with us what was going on. I think he was on the
14 e-mail. Don't quote me though.

15 Q Okay. You think that Mark was copied on the
16 e-mail that you're referring to receiving in February?

17 A Yeah. I think. I'm not 100 percent sure.

18 Q Okay. Can you think of anyone else as you
19 sit here today that would have received that February
20 25th e-mail that was either copied or in the To line?

21 A I mean, I'd speculate only. Like, I'd have
22 to say HR I'd guess.

23 Q Okay. So that would have been Ms. Green?

24 A Mm-hmm.

25 Q Okay. So to your knowledge you

1 believe -- and I understand that you're estimating
2 here and I'm couching this based on the estimation
3 from you -- your estimation is that you believe that
4 February 25th e-mail that you received included you,
5 Mr. Moloughney, and possibly Ms. Green?

6 A It had a few people. I don't know. It may
7 have had more. I don't -- I don't recall everybody.
8 I do know. 'Cause I didn't think I was on it. But I
9 was later told I was and then when I pulled up my
10 e-mail, I was on it.

11 Q Okay. So you're certain that you were on
12 it. You believe Mr. Moloughney was on it. You
13 believe Ms. Green was on it. You're not certain about
14 those --

15 A Or it could have been done to HR at EPM,
16 which that hits multiple people. So it could have
17 been to the general HR one.

18 Q Okay. But you are certain that you were on
19 it. Possibly the general HR e-mail. And possibly Mr.
20 Moloughney as well.

21 A Correct. Yeah.

22 Q Okay. Is there anyone else that you believe
23 could have been on that February 25th e-mail?

24 A I mean, I could speculatively say Steve
25 Carpitella, Ali. But I'm not sure. I don't know who

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1 Ms. McCart decided she wanted to add to it. She may
2 have not wanted to add them. I don't know. I can't
3 really speculate for her.

4 Q Okay. Anyone else that you think may have
5 been on it, other than those you've already
6 identified?

7 A I don't know if another attorney was on
8 there. I don't know. I have no idea.

9 Q Okay. Understood. So you said that you
10 mentioned the complaint to Mark. You mentioned the
11 complaint to Mr. Minghini. Because you all were
12 together when you realized that you had received the
13 complaint via e-mail on February 25th.

14 A Mm-hmm.

15 Q Is that yes?

16 A Yes. Yes.

17 Q Where were you together when you had this
18 conversation that you just described?

19 A It was at the airport before we left.

20 Q Okay. Were you all flying together on the
21 same plane?

22 A Two planes. Yes.

23 Q Okay. Who all was there and present?

24 A For the weekend?

25 Q That were leaving for the retreat that you

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1 described?

2 A Every exec.

3 Q Every exec. Okay.

4 A Mm-hmm.

5 Q That would include Mr. Callan?

6 A Mm-hmm.

7 Q Was Mr. Carpitella there?

8 A Yes.

9 MR. WILSON: Not mm-hmm. Yes or
10 correct.

11 THE WITNESS: Oh. Sorry. Yes. Yes.
12 Sorry. Yes. Yes.

13 BY MS. RAGAN:

14 Q Mr. Carpitella was there as well?

15 A Yes.

16 Q Was Ali there as well?

17 A No. She's not an executive. Senior
18 leadership.

19 Q Understood. Would Mr. Minghini been the
20 only HR representative there or compliance person
21 there?

22 A Yes.

23 Q Okay. All right. So you're at the airport.
24 You're about to leave for this retreat. You have a
25 conversation with Mark informing him of the complaint.

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1 Correct?

2 A Yeah. 'Cause I had no awareness. I said,
3 you know, what the F is this?

4 Q Mm-hmm. Okay.

5 A What the heck? This is two months ago.
6 What -- what in the world?

7 Q Okay. And you had a conversation with
8 Mr. Minghini directing him to start an investigation?

9 A Mm-hmm.

10 Q Is that a yes?

11 A Yes. Sorry.

12 Q Okay. Did you have a conversation with
13 anyone else there at the airport about Ms. McCart's
14 complaint?

15 A I don't know if it was at the airport, but I
16 know that day that we told all the executives 'cause I
17 thought that was the only fair transparency to let
18 them all know.

19 Q Okay. As best as you can recall, can you
20 explain to me what it was that you told all of the
21 executives about Ms. McCart's complaint?

22 A We -- we didn't name it by name. We just
23 said that there was a complaint against Mark. That
24 whatever was in it. Sexual harassment or whatever it
25 was. I don't know exactly what was in that. And that

1 we were starting an investigation.

2 Q Okay. So essentially it was just notice,
3 Ms. McCart has made a complaint against Mr.
4 Moloughney. Correct?

5 A Yeah. It's in touch with HR. Unless you're
6 asked, keep things confidential. You know, this isn't
7 something where you create gossip. You just -- you've
8 got to let the pros handle it.

9 Q Understood. And that was -- that sentiment
10 that Ms. McCart had made this complaint against Mr.
11 Moloughney, HR is taking care of it, let's not create
12 gossip about it. That sentiment was expressed to all
13 of the executives that were at that retreat?

14 A Correct.

15 Q Okay. And it was expressed on that same
16 day, February 25th?

17 A Correct. They may not remember the date,
18 but I do.

19 Q Okay. And you remember it because that was
20 the day you were leaving for the trip?

21 A That and coincidentally it was month end.
22 So everybody was complaining to me that I planned this
23 retreat at month end. And I said if you don't have
24 good enough troops back there leading, we got much
25 bigger challenges that we need to dive in during this

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1 retreat.

2 Q Okay. And where all did you -- where did
3 you go for the retreat?

4 A My beach house.

5 Q Okay. And that's where?

6 A WaterSound, Florida, 30A. You may know
7 that.

8 Q I do know that area. Can you estimate for
9 me how many executives were there?

10 A Man. That's a good question. Well, I had
11 to sleep on the couch. And the place fits 16, but
12 obviously some beds you can't share. A few of our
13 female executives were very kind to share a bed. And
14 we didn't think that that would be a challenge, and
15 they all agreed. Oh, Lord. Eleven, 12, 13.
16 Somewhere around there.

17 Q Okay. Got it. And that would have included
18 all of the C-level employees?

19 A Yes.

20 Q Executive. When you say executive, that's
21 what you mean?

22 A Yeah. Yeah. Yeah.

23 Q Understood. Okay.

24 A Yes. Sorry if I didn't say that.

25 Q Thank you.

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1 A Yes.

2 Q Okay. So you make this announcement as you
3 described, sort of just letting the executives know.
4 What is your next involvement as it relates to either
5 the investigation into Ms. McCart's complaint or the
6 decision to terminate her employment?

7 A In what sense? Like, just with her? Or in
8 general?

9 Q In general. Any steps that you took that
10 would have in any way related to either her complaint
11 of sexual harassment and the response that the company
12 made to it, or the decision to terminate her
13 employment?

14 A Well, we talked about it. And we said, you
15 know, it's an unfortunate situation. We need to let
16 it run its course. We got to let HR stay in it. I
17 did say that statement a few times 'cause sometimes
18 you've got to remind people a few times. Or some
19 people you say 17 times, but. And that was it. I
20 waited till the investigation was over.

21 Q Okay. Was Mr. Kreiner at the retreat?

22 A No. Nn-mmm.

23 Q Okay. So how close in relation to receiving
24 that e-mail on February 25th did you reach out to Mr.
25 Kreiner about Ms. McCart's sexual harassment e-mail?

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1 A I mean, I let him know it was existing. But
2 we never went into details like after --

3 MR. WILSON: And I'm just going
4 to -- this -- on the record, I'm going to caution you
5 not to testify about any conversation that you had
6 with Mr. Kreiner.

7 THE WITNESS: Oh.

8 MR. WILSON: She can ask you about
9 when.

10 MS. RAGAN: When.

11 THE WITNESS: Okay. That's it.

12 BY MS. RAGAN:

13 Q I'm asking you about the fact of the
14 communication as opposed to what you were
15 communicating.

16 A Got you. Got you. Man. This stuff's
17 complicated. I apologize. Man. It's a lot easier to
18 do a mortgage.

19 Q You're doing fine.

20 A Fuck, man. I'm just being honest.

21 Q So that would have been the second occasion.
22 Somewhere approximately around February 25th when you
23 received the e-mail of Ms. McCart's complaint --

24 A Mm-hmm.

25 Q -- that would have been the second

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1 communication that you had with Mr. Kreiner related to
2 Ms. McCart?

3 A Yeah.

4 Q But it would have been the first occasion
5 related to her sexual harassment complaint?

6 A I just said a complaint. I didn't know what
7 was all in it.

8 Q Understood.

9 A And I let him know, like, hey, I know we
10 have talked about this. Well, this now has to be
11 paused.

12 Q Okay. So at that point you made the
13 decision to not take any action regarding Ms. McCart
14 or her employment until the investigation into her
15 sexual harassment complaint was complete?

16 A Correct. Yeah.

17 Q Okay. And what was your understanding of
18 what happened in the course of EPM's investigation
19 into Ms. McCart's sexual harassment complaint?

20 A What do you mean? Like, what HR did or?

21 Q Well, anything. Any steps --

22 A I stayed --

23 Q -- that the company took.

24 A I had to -- I believe in taking myself out
25 of it 'cause I didn't want any influence of anything.

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1 And I didn't want to make it seem like I'm steering
2 one way or another. So I let HR do their job.

3 Q Okay. So you don't know what all steps HR
4 took in investigating this complaint?

5 A I know Nyree very well. And she was very
6 thorough. I know she met with multiple people because
7 I know that she had met with one gentleman that had
8 come to me, DeAngelo. Because DeAngelo had come to me
9 for some advice at one part about Tiar. He gave me
10 some details on some things.

11 And I told him, you got to take that to HR.
12 Don't know if he ever did because he made some
13 comments that he doesn't know if he wants to take it
14 to HR 'cause he said that typical guy stuff. Guys
15 don't go to HR. That's what he said to me. So he
16 was -- I know he met with her.

17 I know Jeff Batson 'cause Jeff Batson had
18 also come to me with some concerns. And I told them
19 guys, I am not HR. I appreciate you can talk to me.
20 However, whatever your concerns are, you need to take
21 those to HR. It does not matter.

22 Q So your understanding as you sit here today
23 as opposed to when it was happening is that in the
24 course of Ms. Green's investigation into Ms. McCart's
25 sexual harassment complaint, she spoke with both

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1 DeAngelo, I believe is the gentleman's first name.

2 A Yeah. I don't remember his last name --

3 Q And Jeff Batson.

4 A I know she talked to other people. I know
5 she obviously had to talk to Mark. We all know. We
6 can make that assumption. I know she talked to Steve.
7 I know she talked to Callan. I mean, she talked to a
8 lot of people.

9 Now if she took notes or records or what she
10 did. I know she put together a -- a proposal and
11 everything that went there. I know that Minghini was
12 involved because she reported to him. Jim. Excuse
13 me. We call him by his last name.

14 I don't know how many people she
15 interviewed. That -- that would be speculative. But
16 I know she interviewed quite a bit of people.

17 Q Okay. You don't know who all she
18 interviewed, but as you sit here you know for certain
19 she interviewed DeAngelo, Mr. Batson, Mr. Moloughney,
20 Steve Carpitella, and Jason Callan.

21 A Yeah. 'Cause she gave me some of the
22 details that I was unaware of from Jeff and DeAngelo
23 so they stick out in my mind.

24 Q Okay. Understood. And you said she made a
25 proposal. To whom did she make that proposal?

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1 A She presented it to me. She just -- she
2 gave me her findings.

3 Q And you said that Mr. Minghini was involved.
4 What was his involvement?

5 A She reported to him.

6 Q Okay. So she just reported her findings to
7 him in the same way that she did with you?

8 A I'm not sure to be honest with you. You'd
9 have to ask her if they interacted and did some things
10 or if he had certain conversations.

11 I know that some of the conversations were
12 obviously uncomfortable. So I don't know if maybe
13 instead of one-on-one, I don't know if they did two
14 on -- I'm not sure. I would tell you that those
15 people would know those details a lot better than
16 myself.

17 Q Understood. How did Ms. Green compile the
18 proposal that she made to you?

19 A What do you mean compile like?

20 Q Well, did she present you a written report
21 with her findings?

22 A I know that she put a report together. But
23 I didn't ask to read it all. I said guys, can you
24 please summarize it. I'm busy. What are your
25 thoughts? I need to know if you think there's merit

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1 or there's not merit. Because that depends on the
2 next actions.

3 Q Okay. You said that your response was guys,
4 can you summarize it? Who were the guys that you said
5 that to?

6 A Oh. I said that to Nyree and -- and Jim.

7 Q Okay. So you know she put together a
8 written report, but you just asked for her to
9 summarize it to you? You didn't read the whole
10 report?

11 MR. WILSON: Objection.

12 You can answer.

13 THE WITNESS: No. I didn't.

14 Y'all -- confuse me, man.

15 BY MS. RAGAN:

16 Q You're saying no, you didn't read the whole
17 report. But yes; you knew the written report existed?

18 A I trusted her. So I wanted to see what her
19 thoughts were.

20 Q Did you ever see the written report even
21 though you didn't read it all?

22 A No.

23 Q Okay. She just had expressed to you I've
24 completed a written report now that my investigation
25 is done?

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1 A Mm-hmm.

2 Q Is that a yes?

3 A Yes. That's a yes. Sorry.

4 Q Got it. Okay. Do you know if Mr. Minghini
5 reviewed the written report, given that he was her
6 supervisor?

7 A Do I know for a fact is I guess what --

8 Q Did he ever communicate that to you?

9 A I don't recall. I don't know. If I had to
10 speculate, I'd say yes. But that's a speculation.

11 Q Understood. You said that you asked Mr.
12 Minghini and Ms. Green to summarize her findings to
13 you. Did I understand that correctly?

14 A Mm-hmm.

15 Q Is that a yes?

16 A Yes. That's a yes. Sorry.

17 Q Thank you. What was the summary that she
18 provided to you? Or Mr. Minghini?

19 A She gave me some of the names. She gave me
20 some of the details of what they had expressed.

21 'Cause she did a thorough background. She
22 did a background on not just Mark, but Tiar. And
23 trying to situation and trying to formulate what led
24 to this to see if there was merit or no merit.

25 And then she came forward and told me that

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1 she didn't believe -- she thought it was consensual
2 and that there was no merit for the basis.

3 Q Okay. She thought what was consensual?

4 A She explained to me what had gone with her
5 and Mark. Because like I said, I was unaware and I
6 didn't -- in the e-mail it didn't really put details
7 in there. So I left it at that.

8 Q Okay. Can you describe for me to the best
9 of your recollection what Ms. Green explained to you
10 was her findings in detail?

11 A She just said there was no merit. And she
12 believed that there wasn't -- I mean, if you're saying
13 there's no merit to a sexual harassment claim, then I
14 would just assume that there's no merit to the sexual
15 harassment claim.

16 Q Okay. So she didn't describe for you what
17 she found actually occurred between Mr. Moloughney and
18 Ms. McCart?

19 A She gave me details on DeAngelo. She gave
20 me details on Jeff's concerns. She gave me vagueness
21 'cause I said I don't -- if it's graphic or not
22 graphic, I don't -- I don't want to be a part of that.

23 Q Okay. So at your direction, Ms. Green
24 didn't give you specific details of any physical
25 encounter between Mr. Moloughney and Ms. McCart?

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1 A No. She gave me physical encounters with
2 DeAngelo and Ms. McCart.

3 Q Okay. So in the course of Ms. Green's
4 investigation into Ms. McCart's sexual harassment
5 complaint when she was reporting her findings to you
6 about the complaint involving Ms. McCart and Mr.
7 Moloughney, she did not describe for you what she
8 found to have occurred between Ms. McCart and
9 Mr. Moloughney?

10 A She said from the testimony that she got
11 from them -- to summarize it -- that she believes what
12 went on was consensual.

13 Q Okay. And that was the most detail that you
14 received from Ms. Green about any physical
15 interaction --

16 A She said there was no --

17 Q Please let me finish my question.

18 A Oh. Sorry. Sorry. I'm sorry.

19 Q Ms. Green saying to you that she determined
20 that any physical interaction between Ms. McCart and
21 Mr. Moloughney was consensual was the most detail that
22 she gave to you about the interactions with Ms. McCart
23 and Mr. Moloughney?

24 A No. She said that there was -- I don't know
25 her exact term so I'll just say some sexual behavior,

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1 but no sexual intercourse or anything like that.

2 Q Okay. Any other details that you can
3 describe that Ms. Green gave you about what she found
4 to be the interactions between Mr. Moloughney and
5 Ms. McCart other than that she found it to be
6 consensual and there was non-intercourse sexual
7 interaction?

8 A She told me that she found some similarities
9 between the story of DeAngelo and Mark.

10 Q Okay. Anything else that she told you about
11 the interaction between Ms. McCart and Mr. Moloughney?

12 A In what -- like, what part of the
13 interaction is I guess the best way to put it?

14 Q I'm asking a very intentionally broad
15 question. I want to know anything that you can recall
16 that Ms. Green reported to you as a result of her
17 findings in the investigation into Ms. McCart's
18 complaint about Mr. Moloughney.

19 A Like I said, just some of the behaviors with
20 her and Mark were very similar to her and DeAngelo.

21 Q Okay. Anything else that you can recall
22 Ms. Green informed you about her findings in the
23 investigation into what occurred between Ms. McCart
24 and Mr. Moloughney?

25 A Like, that's where I'm, I guess, a little

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1 confused. 'Cause I -- I don't know what to disclose.

2 'Cause like I said is --

3 Q You need to disclose what you know that's
4 responsive to my question.

5 A That's what I'm saying is I'm not sure
6 what's responsive because I don't know if I should get
7 into the graphic details that she told me about
8 DeAngelo and some of those things.

9 Q It seems really important for you to talk
10 about. Let me assure you I'm going to let you talk
11 about it.

12 My question to you right now in the moment
13 has repeatedly been very clear to limit it to the
14 interaction between Ms. McCart and Mr. Moloughney.

15 So hopefully now that you're assured I will
16 let you talk about DeAngelo you can respond to my
17 question which is: What did Ms. Green tell you about
18 her findings from her investigation into what occurred
19 between Ms. McCart and Mr. Moloughney?

20 A She said it was consensual.

21 Q Okay. Other than what you've testified
22 to -- Ms. Green saying she found the interaction to be
23 consensual and that there was non-sexual intercourse,
24 sexual activity between Ms. McCart and Mr.
25 Moloughney -- as you sit today can you think of any

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1 other details that Ms. Green provided to you in
2 summarizing the findings from her investigation?

3 A Not that I recall.

4 Q Okay. Good deal. All right. Did Mr.
5 Minghini provide you any detail about the
6 investigation into Ms. McCart's complaint about Mr.
7 Moloughney other than what Ms. Green had provided to
8 you?

9 A We chatted about it. But no. I mean, we
10 just -- Nyree was the expert, so.

11 Q Okay. What did you and Mr. Minghini chat
12 about as it related to Ms. McCart's complaint against
13 Mr. Moloughney?

14 A That her findings were that she didn't
15 believe there was merit, and we were accepting her
16 findings.

17 Q Okay. Let's see here. Did Ms. -- excuse
18 me -- Ms. Green give you any information about what
19 Mr. Callan provided to her when she interviewed him?

20 A Nn-mmm.

21 Q Okay. But you're certain she interviewed
22 him?

23 A I'm not 100 percent certain, but I -- I
24 believe so.

25 Q Okay. Did Ms. Green provide you any

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1 information about what she learned from Mr. Carpitella
2 when she interviewed him?

3 A I mean, we talked about the numbers. And we
4 talked about the performance. And that he talked
5 about her knowledge base. Things like that. That's
6 what we've already talked about.

7 Q So in the course of Ms. Green's
8 investigation into Ms. McCart's sexual harassment
9 claim, Mr. Carpitella told her about his concerns
10 about Ms. McCart's performance?

11 A Yeah. That was on the record. That was on
12 the record, you know. When was that on the record?
13 Just then? Or before? I'm not sure if it was before.
14 I just know it was on the record then.

15 Q Okay. Understood. And did Ms. Green tell
16 you anything about what she found after interviewing
17 Mr. Jeff Batson?

18 A In what sense? I guess I know I say that
19 but that Jeff felt uneasy around Ms. McCart. Like
20 stuff like that? Is that what you want to know?

21 Q I want to know what Ms. Green told you about
22 her findings from her conversation with Mr. Batson in
23 the course of her investigation into Ms. McCart's
24 complaint. If you remember everything she told you, I
25 want to know --

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1 A No.

2 Q -- everything you remember. I want -- to
3 the extent that your memory allows you as you sit here
4 today, I want to know as much detail as you can
5 provide about what Ms. Green told you that came
6 from --

7 A Yeah. I mean --

8 Q -- her investigation with Mr. Batson.

9 A -- she told me part of the reason for lack
10 of merit she thought is because of how many advances
11 Tiar had done to Jeff and some of the behavior that
12 had gone on there.

13 And how she had started following Jeff's
14 girlfriend online. And making comments on her
15 Instagram. Maybe Facebook. I don't know. One of the
16 socials. We'll just put it like that.

17 And how Jeff repeatedly felt uneasy, but he
18 didn't want to mention anything 'cause he just said
19 that it's up to him to say to keep somebody away.

20 And that I know she had left crying one time
21 because there was a jokingly fake engagement party
22 that some people played a joke on Jeff, and she
23 thought it was real. She had an affinity for Jeff
24 which, that's okay.

25 Q All right. So Ms. Green told you that

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1 Mr. Batson expressed to her that he felt uncomfortable
2 with comments that Ms. McCart had made to him?

3 A Seems to be.

4 Q Okay. And what did she tell you were the
5 comments that made Mr. Batson feel uncomfortable?

6 A No. I'd say ask. No. I'd say ask -- Jeff
7 would know all those comments, not me.

8 Q Okay. I'm asking you what Ms. Green told
9 you in reporting her findings to you.

10 A She didn't give me specifics.

11 Q Okay. Understood.

12 A I didn't ask for them either.

13 Q But she gave you enough specifics to
14 describe for you a party that Ms. McCart left crying
15 at. Is that correct?

16 A Yeah.

17 Q Okay. So describe for me what information
18 Ms. Green provided to you about this party that she
19 alleged Ms. McCart left crying from.

20 A Some -- they jokingly -- some people played
21 a joke on Jeff to -- they congratulate him for his
22 engagement, which was coming but not yet. And she
23 thought Jeff actually had gotten engaged. And she had
24 an affinity for Jeff.

25 Q Okay. So Ms. Green told you that Mr. Batson

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1 had expressed to her that after there was a fake party
2 thrown for his engagement --

3 A Through her investigation.

4 Q Through her investigation she found that
5 there was a fake party thrown for Mr. Batson as a joke
6 saying he was engaged. And upon learning of that,
7 Ms. McCart left crying?

8 A Yeah. Mm-hmm.

9 Q Okay. And did Ms. Green tell you through
10 what information she learned that Ms. McCart left
11 crying from this fake engagement party?

12 A I mean, I can speculate, but no.

13 Q Ms. Green didn't tell you how she found that
14 information?

15 A Nn-mmm. I remember the party. I was there.
16 Like, I was in the office that day.

17 Q Okay. Do you remember seeing Ms. McCart
18 leaving crying?

19 A Yes.

20 Q So is this memory that you're recalling of
21 this information something that was communicated to
22 you by Ms. Green? Or just something that you recall
23 experiencing?

24 A Ms. Green communicated it to me, and I
25 recall -- 'cause I didn't understand, you know.

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1 Somebody leaves, you don't know what's going on
2 especially during COVID. I wasn't going to assume.
3 She validated. She put A and B together.

4 Q Okay. So you saw Ms. McCart leaving that
5 fake party that day, but you didn't realize that
6 according to Ms. Green she was doing so because she
7 was upset about Mr. Batson being engaged?

8 A Yes. Correct.

9 Q Okay. So who was it that made the
10 connection that Ms. McCart left that party crying
11 because she believed Mr. Batson was engaged?

12 A Oh. I don't know. I don't know who. Like
13 I said, I don't know everybody that Nyree met with.
14 It could have been from Jeff. I don't know.

15 Q Okay. Understood. What else did Ms. Green
16 express to you that she learned through her
17 investigation into Ms. McCart's sexual harassment
18 complaint from Mr. Batson?

19 A Like I said, I'm not sure exactly what Jeff
20 told her. I didn't ask for specifics.

21 Q Again, understood. I am asking what Ms.
22 Green told you as opposed to what Jeff told Ms. Green.

23 A Well, Ms. Green just relayed that she had
24 talked to Jeff. And Jeff had had his concerns. And
25 this is something that went down that was part of the

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1 summary. Just she went down and gave her thoughts.

2 Q Okay. And so what I'm asking you for is
3 what the details were of what you just described.
4 Ms. Green was providing you a summary and she went
5 down and gave her thoughts is what you just said.

6 A Mm-hmm.

7 Q What did tell you when she was giving you
8 the summary and giving you her thoughts?

9 A Well, she said to me, like, look. You know
10 that -- you know, Tiar was always overly -- I don't
11 know the term to use, but like I said, an affinity
12 towards Jeff. She's, like, you were aware of that? I
13 said yes.

14 And she said did you know about this? I
15 said no, but now this makes sense. And she just went
16 through every -- every person and just gave we'll say
17 one or two liners.

18 'Cause I was just looking for a general is
19 this have merit? And I need to investigate further?
20 And I need to take further action one way? Or this
21 has -- like, I was just looking to see where the facts
22 lied.

23 Q Okay. You said she went down every person
24 and gave one or two lines. Who was the every person
25 that she went down when she was giving you the one or

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1 two lines about her investigation into Ms. McCart's
2 sexual harassment claim against Mark Moloughney?

3 A She talked about -- she talked about Steve.
4 And she knew about the performance. And I know that
5 Jason had to testify on different job changing, things
6 of that nature. You had Jeff. You had DeAngelo. Who
7 else? I think she talked to Ali, but I'm not sure.
8 Ali would have made sense. Some of the other people.

9 Like I said, I think I think she talked to
10 somewhere around five or ten people. I don't recall
11 everybody. I recall those people 'cause they're still
12 here at EPM. I'm sure there's some people like I'd be
13 speculative if I said some other ones 'cause they're
14 not here anymore if they did or didn't.

15 MR. WILSON: I know you don't want to
16 take a break, but I've got to take break.

17 MS. RAGAN: Okay. I'm fine with taking
18 a break now, but I'd like to get to the end of this
19 line of questioning.

20 MR. WILSON: That's fine. I'm just
21 yeah. That's fine. But I have to go to the bathroom.

22 MS. RAGAN: Understood.

23 THE WITNESS: Shit. When are we
24 getting to eat?

25 MR. WILSON: I'm an old man.

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1 THE REPORTER: We are off the record --

2 MS. RAGAN: I don't think we agreed to
3 go off the record. I thought he was just going to
4 step out to go to the bathroom.

5 MR. WILSON: Yeah. We're off the
6 record.

7 MS. RAGAN: Oh.

8 MR. KREINER: It's twelve.

9 MS. RAGAN: I'm sorry. I did not
10 realize that we were deciding that we're off the
11 record.

12 MR. WILSON: Yeah. I'm going to
13 take -- yeah. I'm not going to let you question
14 him --

15 MS. RAGAN: We have to agree.

16 MR. WILSON: -- question the witness
17 while I'm not here.

18 MS. RAGAN: Well, we have to agree
19 we're off the record.

20 MR. WILSON: I have to go to the
21 bathroom. And I'm --

22 MS. RAGAN: Okay.

23 MR. WILSON: -- not going to sit here
24 and pee.

25 MS. RAGAN: That's fine. That's fine.

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1 I haven't agreed to go off the record. So we're still
2 on the record.

3 BY MS. RAGAN:

4 Q All right. So you said that you -- Ali was
5 another person that you mentioned. Is Ali -- what did
6 Ms. Green tell you about Ali as far as what she
7 learned from her in the course of the investigation?

8 A I'd like to wait until he gets back.

9 Q I'm sorry. You don't have the right to make
10 that call. We have to agree to go off the record. He
11 wouldn't allow me to agree. So I'm continuing to ask
12 the questions. You've got two other counsel in here
13 that can object to questions if you'd like.

14 THE WITNESS: Is that okay?

15 MS. SMITH: As long as you're okay with
16 me objecting, then that's --

17 MS. RAGAN: Absolutely. Yeah. No
18 problem with that whatsoever.

19 BY MS. RAGAN:

20 Q Okay. Would you like me to repeat the
21 question?

22 A Yeah. Real quick though. Before we get
23 into that, when are we going to do lunch? 'Cause I do
24 that whole I.F. and I'm starting to starve.

25 Q We can talk about that and go off to break

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1 after you answer my question. I think that's one of
2 the things we understood at the beginning that we're
3 not going to take a break while there's a pending
4 question and there is a pending question.

5 A Okay. Fair enough.

6 Q Would you like me to repeat the question?

7 A Please.

8 Q What did Ms. Green tell you about what she
9 learned from Ali in the course of her investigation
10 into Ms. McCart's sexual harassment complaint about
11 Mark Moloughney?

12 A About Mark? Or about, you know -- she would
13 talk to Ali just about --

14 Q Please answer my question.

15 A No. She would have talked to Ali about
16 production and that --

17 Q Okay. You had indicated that Ali is one of
18 the people that Ms. Green talked to.

19 A I believe so.

20 Q She talked to Ms. Ali in the course of
21 investigating Ms. McCart's sexual harassment complaint
22 about production?

23 A I know she talked to Steve about it. And I
24 said I would assume that Ali would be another one.

25 Q Okay. Understood. Anything else that Ms.

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1 Green shared with you that she was informed by from
2 Ali?

3 A Not that I'm aware of.

4 Q All right. And then the only other one that
5 I think that we haven't talked about is -- well,
6 actually, Mark. Did Ms. Green tell you what she
7 learned from Mark in the course of her investigation
8 into Ms. McCart's sexual harassment complaint?

9 A Like I said, I said I don't want any graphic
10 details. That's not my business. She did say that
11 she thought that what went between them was
12 consensual.

13 Q Okay. Did she tell you why she came to the
14 conclusion that Ms. McCart had consented to the
15 conduct that she complained about being sexual
16 harassment?

17 A No. I mean, she explained some of her
18 concerns and an all around picture. But not
19 specifically just that.

20 Q Okay. What were the concerns in the all
21 around picture that Ms. Green expressed to you?

22 A She thought there was a pattern there.

23 Q Okay. What was the pattern?

24 A We had Jeff. We had Mark. Now we also had
25 DeAngelo. DeAngelo I knew about because DeAngelo came

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1 to me and I told him he had to go to HR. And then I
2 said leave it at that. Once again I did that part.

3 Q Okay. I am not clear as to what you mean
4 when you say there's a pattern. You've identified the
5 names of three men in response to me asking you about
6 a pattern. I don't understand what you mean. Can you
7 please elaborate on that? What is the pattern --

8 A You mean my thoughts? My thoughts?

9 Q Well, your testimony was that Ms. Green
10 expressed to you that she found there to be a
11 pattern --

12 A Mm-hmm.

13 Q -- that resulted in her concluding that Ms.
14 McCart had consented to the physical contact between
15 her and Mr. Moloughney.

16 I'm asking you to describe what did Ms.
17 Green express to you was the nature of the pattern?

18 A She thought her behaviors -- to summarize
19 what she would say -- was promiscuous. And she
20 thought that she was always outwardly putting herself
21 out there. So when she looked at everything and then
22 she validated it with multiple people, she believed it
23 was consensual.

24 Q Okay. So Ms. Green expressed to you that
25 she believed that Ms. McCart was promiscuous and that

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1 she had put herself out there with Mr. Moloughney, Mr.
2 Batson, and DeAngelo?

3 A Correct.

4 Q Okay. Understood. Did Ms. Green describe
5 for you how she believed that Ms. McCart had put
6 herself out there and been promiscuous with Mr.
7 Moloughney?

8 A Mr. Moloughney in particular? Or --

9 Q Yes, sir.

10 A No. She did not in particular.

11 Q So she didn't give you any particular detail
12 about the individual with whom Ms. -- she was
13 investigating Ms. McCart's complaint?

14 A She told me that they -- after the football
15 game went with -- 'cause Sarah was there, the head
16 of -- not HR but right underneath her. That they had
17 gone to one place together. And then they went with
18 each other to another place. And that they had been
19 together for quite a few hours together, so. She
20 thought everything followed accordingly.

21 Q Okay. So what you just described is what
22 Ms. Green expressed to you the evidence that
23 Ms. McCart had been promiscuous and putting herself
24 out there with Mr. Moloughney?

25 A Correct. And that they -- you know, they

1 did something. But I didn't ask. I just asked. I
2 did ask was there sex involved? And they said no. It
3 was, I guess, what we would say nowadays fooling
4 around or something of that nature. I left it
5 at -- okay. We'll leave it at that.

6 Q Okay. Are there any other details you can
7 think of as you sit here today that Ms. Green
8 expressed to you formed her opinion that Ms. McCart
9 had consented to the interaction with Mr. Moloughney?

10 A I mean, she told me that she stayed with
11 Mark all night and didn't leave till the next day if
12 that's what you mean. But --

13 Q I'm asking about anything that you can
14 recall. It's not what I mean. It's what you can
15 recall.

16 A Well, I didn't know if that was pertinent.
17 That's why I said that. Yeah. She told me that she
18 thought it was consensual because something that's
19 usually not consensual, somebody leaves or does at
20 least something. And she said that she stayed till
21 the very next day that she found. So that was part of
22 it. And like I said over, just some of her prior
23 behaviors.

24 Q Okay. Did Ms. Green express to you that she
25 found that Ms. McCart verbally told Mr. Moloughney no?

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1 Verbally stopped any physical interaction with him?

2 A She did not tell me that.

3 Q Okay. Did Ms. -- okay. The other
4 individuals that you described as being part of this
5 pattern were Mr. Batson. He was one of the other
6 individuals.

7 What did Ms. Green express to you that she
8 learned from Mr. Batson that helped form her belief
9 that there was a pattern of Ms. McCart being
10 promiscuous and putting herself out there with Mr.
11 Batson?

12 A Well, in the testimony she's found a pattern
13 between DeAngelo, Jeff, and Mark that Ms. Tiar had
14 expressed that she wanted to have kids with them.

15 Q Okay. Anything else that Ms. Green
16 expressed to you she found from Mr. Batson that
17 supported her conclusion that there was a pattern of
18 how Ms. McCart acted with the three of those men?

19 A Well, Jeff's the only one that didn't act on
20 anything. Probably the best way to put it. So no.
21 Outside of like I said, the -- the pattern of wanting
22 to have kids with them. And start a life.

23 Q Okay. So Ms. Green informed you that she
24 found in the course of her investigation into
25 Ms. McCart's sexual harassment complaint that

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1 Ms. McCart expressed that she wanted to have kids to
2 Mr. Moloughney, to Mr. Batson, and to DeAngelo --

3 A No. She said she found it between all three
4 of them. DeAngelo, Jeff, and Mark all said it.

5 Q This is a great example of why you've got to
6 let me get the question on the record --

7 A I'm sorry.

8 Q -- 'cause that's exactly what I asked you.
9 And you answered with no, but then repeated my
10 question back to me. So let's clarify the record.

11 A Okay.

12 Q My understanding of your testimony is that
13 one of the things that Ms. Green expressed to you that
14 she found in the course of her sexual harassment
15 investigation into the conduct between Ms. McCart and
16 Mr. Moloughney that led her to believe that there was
17 a pattern of Ms. McCart's conduct was that she had
18 expressed to Mr. Moloughney, Mr. Batson, and to
19 DeAngelo that she wanted to have kids with each of
20 them?

21 A Yes.

22 Q Okay. Understood. All right.

23 A Can I make a clarification?

24 Q Yes. Please.

25 A It was from them. Not from Tiar. That's

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1 what I'm saying.

2 Q What was from the men I believe is who
3 you're referring to?

4 A They all three said those are some of the
5 conversations they had with Tiar.

6 Q Again I was not asking you what Tiar said.
7 I was --

8 A Oh. Okay. Sorry.

9 Q -- asking you what --

10 A My confusion.

11 Q -- Ms. Green told you in the course of her
12 investigation. What we're talking about right now and
13 what we have been talking about for some time now is
14 what Ms. Green conveyed to you were the results of her
15 investigation.

16 So my understanding is that your testimony
17 is that Ms. Green expressed to you that one of the
18 reasons that she found that Ms. McCart's interaction
19 with Mr. Moloughney was consensual was that Ms. Green
20 determined that Ms. McCart engaged in a pattern of
21 similar behavior with Mr. Moloughney, Mr. Batson, and
22 DeAngelo. Is that correct?

23 A Yes.

24 Q And Ms. Green expressed to you that one of
25 the patterns she found between Ms. McCart and those

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1 three men is that she found in the course of her
2 investigation that Ms. McCart had expressed to Mr.
3 Moloughney, Mr. Batson, and DeAngelo that she wanted
4 to have kids with each of them?

5 A Yes.

6 Q Okay. Understood. All right. Is there
7 anything else that you can recall that Ms. Green
8 expressed to you formed the basis of her conclusion
9 that Ms. McCart engaged in a pattern of conduct with
10 Mr. Moloughney, Mr. Batson, and Mr. DeAngelo?

11 A Not at this time.

12 Q Okay. So just the fact that she had
13 expressed to all three of them that she wanted to have
14 kids with them?

15 A I mean, there was a few thing she expressed,
16 but I'm saying that was the -- the big pattern that
17 she found along with -- you know, she came to a
18 conclusion.

19 She said, you know, how can there be -- part
20 of the reason for her merit -- she came to the
21 conclusion of three men she's wanted to have kids
22 with. How can there be a sexual harassment claim
23 and -- and things of that nature. You know.

24 You know, look. People can change their
25 mind. I'm not going to say they can't. But she just

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1 said between that and -- and some of the -- like I
2 said earlier, some of the promiscuous behavior
3 and -- and outlets out there and some of the things
4 that she learned that she felt it was consensual and
5 that there was no merit to the claim.

6 Q Okay. So what you're doing is talking in
7 pretty broad generalities about what Ms. Green
8 expressed to you. Whereas what I am doing is trying
9 to get the detail as to that.

10 So when I asked you a moment ago if there
11 was anything else that you could recall that Ms. Green
12 expressed to you formed the basis of her conclusion
13 that the conduct between Mr. Moloughney and Ms. McCart
14 was consensual, you said that there was nothing else.

15 But then you gave me some very broad
16 examples of some things. So let's go back to that
17 question and re-visit it.

18 A Okay.

19 Q Thus far the only specific detail that
20 you've identified for me that Ms. Green expressed to
21 you was the basis of her conclusion that Ms. McCart
22 had consented to the physical interaction with Mr.
23 Moloughney was that there was a pattern in her conduct
24 between Mr. Moloughney, Mr. Batson, and DeAngelo.

25 And that that pattern resulted from the fact

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1 that she had expressed to all three of those men that
2 she wanted to have kids with them. Do I -- am I with
3 you thus far?

4 A Well, I was giving you a summary just to
5 give you some context.

6 Q Understood.

7 A Before --

8 Q What I just stated, did I understand your
9 testimony correctly?

10 A I mean, do we also include the -- what she
11 had told me, the sexual relations that she had with
12 DeAngelo? The -- Jeff didn't act on it, but that.
13 And then with Mark. Like, I don't -- I
14 don't -- that's what I'm trying to say is she
15 summarized, like I said, for me. And that's -- she
16 found that to be what she thought was very crucial.

17 Q Okay. Understood. I'm going to ask you to
18 answer my question. And then I'll be glad to allow
19 you to provide more detail.

20 A Okay.

21 Q My question to you was: Did I understand
22 your testimony correctly that thus far the only facts
23 that you have identified that Ms. Green expressed to
24 you that formed the basis of her conclusion that
25 Ms. McCart consented to the interaction with

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1 Mr. Moloughney was the pattern that she said resulted
2 from Ms. McCart expressing to Mr. Moloughney,
3 Mr. Batson, and DeAngelo that she wanted to have kids
4 with them?

5 MR. WILSON: I'm going to object.

6 But you can answer the question.

7 THE WITNESS: Just out of curiosity,
8 what does the objection do?

9 MR. WILSON: Just preserves it for the
10 record.

11 MS. RAGAN: Answer the question,
12 please.

13 THE WITNESS: Yes.

14 BY MS. RAGAN:

15 Q Okay. So that's the one example that we
16 have. Now let's talk about any others that you may
17 have which I believe you referenced in your last
18 response regarding --

19 A Well, it was part of her --

20 Q -- DeAngelo.

21 A -- her summary.

22 Q Understood. What else can you identify that
23 Ms. Green expressed to you was the basis of her
24 concluding that Mr. Moloughney and Ms. McCart's
25 interactions were consensual because of a pattern of

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1 Ms. McCart's conduct?

2 A I mean, with DeAngelo -- so you're just
3 talking about the conversation Nyree had. So --

4 Q I'm talking about the conversation that
5 Ms. Green expressed to you --

6 A Yeah.

7 Q -- that formed the basis of her conclusion
8 that Ms. McCart engaged in a pattern of conduct with
9 Mr. Moloughney, Mr. Batson, and Mr. DeAngelo.

10 MR. WILSON: Before you answer that
11 question, you can answer it again.

12 I've got 12:40. And I know that you
13 don't like to be interrupted when you're on a roll.
14 But we're going to have to take a break at some point.
15 So does one o'clock work for you or --

16 MS. RAGAN: Assuming that we can get to
17 the end of this line of question, absolutely it works.

18 MR. WILSON: All right.

19 THE WITNESS: Do what?

20 MR. KREINER: Can we go off the record
21 for a second?

22 MR. WILSON: No. She's got a question
23 pending, so.

24 MR. KREINER: I didn't realize that. I
25 apologize.

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1 MR. WILSON: Right.

2 MS. RAGAN: Yeah.

3 MR. WILSON: So he's got to answer that
4 question.

5 MS. RAGAN: And just for the record,
6 when we do go off record, we're not having any
7 conversations in front of the witness.

8 MR. WILSON: No. We're not going to
9 have any.

10 MS. RAGAN: So I'm glad to go off the
11 record, but we'll segregate.

12 MR. WILSON: Sure.

13 BY MS. RAGAN:

14 Q My question to you was: Other than what we
15 have confirmed already, which is your testimony that
16 one of the things Ms. Green expressed formed the basis
17 of her conclusion that Ms. McCart had engaged in a
18 pattern of conduct with Mr. Moloughney, Mr. Batson,
19 and Mr. DeAngelo was that she had expressed to all
20 three of them she wanted to have kids, what else did
21 Ms. Green express to you formed the conclusion that
22 she made that there was a pattern in Ms. McCart's
23 conduct?

24 A I know that she thought -- so you're talking
25 about all three of them. Right? Just to be clear.

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1 Q I am talking --

2 A Are you talking about Ms. Green? Nyree? I
3 just call her Nyree 'cause --

4 Q That's fine.

5 A -- the -- it's like saying Mr. Batson. That
6 just sounds weird to me. I just call him Jeff.

7 Q Please feel free to refer to them as you
8 like.

9 A So for Nyree, the conversation she had is
10 that she also felt that -- that possibly these
11 gentlemen had rejected her because these conversations
12 that she had had and then either they didn't take
13 action or they didn't follow up with more. So she
14 thought that that was part of the pattern that she
15 felt like that.

16 She also thought it was -- part of her
17 thoughts in her summary -- her thoughts -- was that
18 the incident happened and then two months later after
19 she's getting reviewed for her job and it was looking
20 like she wasn't going to keep it, that that allegation
21 showed up. She thought that that was convenient. And
22 she thought that everything that she had looked under,
23 just she didn't think there was merit.

24 Q Okay.

25 MR. WILSON: All right. Now

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1 we're -- he's going to sit right here. And we're
2 going to take a quick break.

3 MS. RAGAN: Okay. Understood.

4 THE REPORTER: We are off the record at
5 12:42 p.m.

6 (Off the record.)

7 THE REPORTER: Back on the record at
8 12:48 p.m.

9 BY MS. RAGAN:

10 Q Okay. All right. Mr. Perez, have you at
11 this point identified for me every fact that Ms. Green
12 expressed to you was the basis of her conclusion that
13 Ms. McCart engaged in a pattern with Mr. Moloughney,
14 Mr. Batson, and DeAngelo?

15 A To the best of my knowledge. Yes.

16 Q Okay. And so your -- one of those -- the
17 last thing that you identified as I understand it is
18 that each of those three men had rejected Ms. McCart.
19 Is that correct?

20 A It's her speculation.

21 Q That was Ms. Green's speculation that Mark
22 Moloughney, Jeff Batson, and DeAngelo had all rejected
23 Ms. McCart?

24 A In her thoughts.

25 Q Okay. Understood. The last one that we

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1 have not talked about in detail is DeAngelo.

2 A Mm-hmm.

3 Q What did Ms. Green express to you she found
4 from speaking to DeAngelo in the course of her
5 investigation into Ms. McCart's sexual harassment
6 complaint?

7 A Well, he had talked about how they had
8 consensual sex. And a few different times. And then
9 she had also expressed how Tiar had sat outside his
10 house at, like, three in the morning one night. And
11 DeAngelo was concerned for himself. And those were
12 the details that were given. I didn't ask how many
13 times or anything of that nature.

14 Q Okay. And those were the details that was
15 given to you by DeAngelo? Or by Ms. Green in
16 summarizing her investigation into Ms. McCart's sexual
17 harassment complaint against Mark Moloughney?

18 A Nyree.

19 Q Okay. Given that DeAngelo had come to you,
20 did you express to Ms. Green that she should talk to
21 DeAngelo as a part of her investigation?

22 A Nn-mmm.

23 Q Is that a no?

24 A No.

25 Q Do you have any knowledge as to how Ms.

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1 Green concluded that DeAngelo would have information
2 relevant to her investigation into Mr. Moloughney's
3 conduct with Ms. McCart?

4 A I mean, I'd have to presume that he went, or
5 she had discovered it talking to other people. I'm
6 not sure. I don't -- I can't speculate on how. I did
7 tell him to go to HR.

8 Q When did DeAngelo come to you expressing
9 concerns about Ms. McCart?

10 A I don't know when that went down. But would
11 you like me to guess?

12 Q Estimate to the best of your ability would
13 be fine.

14 A I'd say fall of 2020.

15 Q Okay. And what specifically did Mr.
16 DeAngelo express to you when he came to you in the
17 fall of 2020 with concerns about Ms. McCart?

18 A That -- now so you want what DeAngelo told
19 me?

20 Q Told you. Yes, sir.

21 A Okay. I was going to say I didn't see this
22 so I'll go off --

23 Q Understood.

24 A -- what he told me.

25 Q Absolutely.

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1 A He said that she was crying at work. And he
2 doesn't have time for this. And that he had a
3 girlfriend, and he probably shouldn't have done that.
4 And he just -- it was stressing him out.

5 And, you know, he didn't have a ride. So he
6 rode with her and I guess they live close to here.
7 They both live in downtown, I think. Somewhere around
8 there back then. And he didn't want to ride MARTA
9 anymore. I mean, he had told me that she had offered
10 to buy him a car.

11 And I just was, like, you got to come to HR.
12 This -- if you're concerned for yourself, you need to
13 go. That's it.

14 Q Okay. And were you concerned that Ms.
15 McCart had violated some policy of Equity Prime
16 Mortgage based on what Mr. DeAngelo expressed to you
17 about her?

18 A No.

19 Q Okay. Did you inform HR about what DeAngelo
20 told you?

21 A No.

22 Q Okay. So the only response that you had to
23 DeAngelo coming to you about these concerns with
24 Ms. McCart was you need to go to HR?

25 A Yeah.

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1 Q Did you ever follow up with that and him or
2 Ms. Green about whether he did in fact take your
3 suggestion in I believe you said fall of 2020 if I'm
4 not mistaken?

5 A Yes.

6 Q And with whom did you follow up?

7 A Well, I asked DeAngelo one day when I ran
8 into him in the bathroom are you good? Is everything
9 resolved? And he said yes. So I don't know if that
10 was HR or the storm had been weathered.

11 Q Okay. Understood. And just to be clear,
12 you understood what DeAngelo was expressing to you was
13 that it was a consensual relationship between him and
14 Ms. McCart?

15 A Yeah. Yes. Yes.

16 Q Okay. So you've used the word promiscuous a
17 few different times to describe, I guess, Ms. Green's
18 findings. Do I understand that correctly?

19 A Correct.

20 Q About Ms. McCart?

21 A [No audible response.]

22 Q Is that a yes?

23 A Yes. That's a yes.

24 Q Okay. What did Ms. Green express to you
25 that she found that resulted in the conclusion that

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1 Ms. McCart was acting promiscuously?

2 A She just said three guys in a certain amount
3 of months at the same office. Who's to know what else
4 is going out there in the -- in the world.

5 Q Okay. What about those three guys did Ms.
6 Green find to be promiscuous by Ms. McCart?

7 A She just thought that was a lot of sexual
8 behavior in a short time period. And you have to
9 understand, Ms. Green is married, of not of that
10 behavior. Could she have been overestimating? That's
11 on her. That's not on me. I'm just repeating her
12 thoughts.

13 Q Okay. And so the three guys that Ms. Green
14 expressed to you she found that resulted in her
15 conclusion that Ms. McCart was promiscuous were
16 DeAngelo, Mr. Batson, and Mr. Moloughney?

17 A Correct.

18 Q And what sexual activity was there between
19 Ms. McCart and Mr. Batson that Ms. Green found to
20 contribute to her decision that Ms. McCart was
21 promiscuous?

22 A She was offering if Jeff wanted to that he
23 could.

24 Q Okay. So Ms. Green found that Ms. McCart
25 offered consensual sex to Mr. Batson?

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1 A Jeff just didn't, like I said, take up
2 any -- he didn't take it up.

3 Q Okay. How did Ms. McCart offer sexual --

4 A I have no idea.

5 Q Okay. And Ms. Green also found that Ms.
6 McCart was offering sexual interaction with Mr.
7 Moloughney?

8 A Correct.

9 Q Okay. And do you have any idea what Ms.
10 Green based that finding on?

11 A No.

12 Q Did you agree with Ms. Green's findings that
13 Ms. McCart was promiscuous and engaged in a pattern of
14 conduct between DeAngelo and Mr. Batson and
15 Mr. Moloughney?

16 A I didn't say that.

17 Q I didn't ask whether you said it. I asked
18 whether you agreed with it.

19 As you sit here today based on the findings
20 that Ms. Green presented to you from her investigation
21 into Ms. McCart's sexual harassment complaint with Mr.
22 Moloughney, did you determine that Ms. Green was
23 right? That Ms. McCart was promiscuous and had
24 engaged in a pattern with these three men?

25 A I don't know if I'd define that as

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1 promiscuous. Because you're asking me exactly that
2 word. So --

3 Q It's a word that you used. Right?

4 A I used it because of my conversation with
5 Nyree.

6 Q Okay. So that word originated with Ms.
7 Green?

8 A Yes.

9 Q Understood. So did you agree with her
10 assessment that Ms. McCart was promiscuous and
11 engaging in a pattern with the three men that we've
12 identified?

13 A I would agree with pattern. I would not
14 agree with promiscuous 'cause that's not for me to
15 decide.

16 Q Okay. Understood. And as a result of Ms.
17 Green's investigation, she recommended to you what
18 should happen at the conclusion of that investigation?

19 A No. No. No. She just said that her
20 findings had no merit. And then after that, you
21 know -- that we had been cleared and we had followed
22 protocol. And we had done everything.

23 Q Okay. Did Ms. Green make any recommendation
24 to you as to what should happen with Ms. McCart as a
25 result of her finding that the sexual harassment claim

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1 had no merit?

2 A No.

3 Q Okay. So she left that for you to decide
4 what to do next with Ms. McCart?

5 A Correct.

6 Q And what did you decide to do next as a
7 result of Ms. Green's findings that her sexual
8 harassment complaint had no merit?

9 A The steps I took? Or exactly what process
10 do you want me to describe?

11 Q In my mind there's no difference between
12 what you just indicated. So let me just rephrase my
13 question for you. I'm asking what did you do --

14 A Next?

15 Q -- next after Ms. Green explained to you
16 that her findings were that Ms. McCart's complaint had
17 no merit?

18 A I called Legal.

19 Q Okay. And you called Legal for the purpose
20 of asking about terminating Ms. McCart? Or sexual
21 harassment?

22 A Well, I had told --

23 Q Don't tell me what she had.

24 MR. WILSON: Objection.

25 Q I'm asking about the purpose of the advice

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1 you were seeking.

2 A Well, I let --

3 MR. WILSON: Don't talk about the
4 content --

5 THE WITNESS: Oh.

6 MR. WILSON: -- of any conversation
7 that you had with Legal.

8 MS. RAGAN: Right.

9 THE WITNESS: I guess I talked to
10 Legal.

11 BY MS. RAGAN:

12 Q Okay. And you talked to Legal about either
13 the termination or the sexual harassment complaint?
14 Or both?

15 THE WITNESS: Can I answer that?

16 MR. WILSON: You can answer that.

17 MS. RAGAN: Yeah.

18 THE WITNESS: Both.

19 BY MS. RAGAN:

20 Q Okay. Understood.

21 A I don't know what I can answer or not. I'm
22 not a -- I'm not a pro at this.

23 Q It's fine. Okay. And ultimately after
24 consulting with Legal, after consulting with Ms.
25 Green, did you consult with anyone else before you

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1 made your final determination that Ms. McCart should
2 be terminated?

3 A Yeah. I talked to Steve Carpitella to see
4 if he still had the same recommendation.

5 Q And did he in fact have the same
6 recommendation?

7 A Yeah. He didn't believe her knowledge
8 would -- would be up to par.

9 Q Okay. And so after consulting with Mr.
10 Carpitella, after consulting with Legal, and after
11 consulting with Ms. Green, you made the determination
12 that Ms. McCart's complaint had no merit and therefore
13 you could proceed with terminating her employment?

14 A I followed Nyree's recommendation that it
15 had no merit. And yes. Then I followed with her
16 termination.

17 MS. RAGAN: Okay. I am glad to take a
18 break now. I appreciate you allowing me to get to the
19 end of that line of questioning which I did not think
20 was a big ask, but apparently it was. And you know
21 what? We're a minute --

22 MR. WILSON: We're a minute.

23 MS. RAGAN: So we can go off the
24 record.

25 MR. WILSON: Off the record.

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1 MS. RAGAN: And we can take a lunch
2 break. We just need to know what time to be back.

3 THE REPORTER: Off the record at 12:59
4 p.m.

5 (Off the record.)

6 THE REPORTER: And we are back on the
7 record at 2:00 p.m.

8 BY MS. RAGAN:

9 Q Okay. Mr. Perez, prior to the break, we
10 talked about your knowledge of Nyree Green's
11 investigation into Ms. McCart's sexual harassment
12 complaint.

13 Aside from the information that you received
14 from Ms. Green about her investigation, did you
15 yourself do any independent investigation into
16 Ms. McCart's sexual harassment claim?

17 A No.

18 Q Okay. Did you speak to anybody directly
19 other than what you've told us about the information
20 you received from Ms. Green in relation to
21 Ms. McCart's sexual harassment claim?

22 A And I spoke about when I told the execs what
23 was going on. To keep it here. And on a few
24 occasions I did the reminder.

25 And if people would ask me, 'cause a lot of

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1 people asked in December because there was an article
2 that went out about it through the industry. I had to
3 address people, some in the firm; some outside the
4 firm. Some of my credit lines called and were
5 inquiring.

6 So I had to give statements like that. But
7 a lot of it was it's a legal matter. You need to call
8 our attorney. That's who you need to handle it with.
9 So it was more context is probably what I would say.

10 Q Okay. Did you make any written statements
11 related to Ms. McCart's complaints in response to any
12 of the inquiries that you just described receiving?

13 A Did anybody make me put it in writing?
14 That's a good question. Shit. God. Man. You make
15 remember that. I don't know because I'm just not
16 sure. I -- I don't know. I don't know.

17 Q Okay. It's possible. You're not certain as
18 you sit here today?

19 A It's possible that somebody made me after I
20 have a call, give a statement. Legal put it together
21 or, you know, chief people officer, and I signed it
22 and sent it. So there's a -- there's a possibility,
23 but I don't recall.

24 Q Okay. Do you recall specifically signing a
25 statement that Legal put together?

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1 A I do not recall.

2 Q Okay. You're saying it's possible that
3 Legal put together a statement and you signed it?

4 A What? To the outside forces?

5 Q Yes, sir.

6 A I don't think Legal did. I would have
7 probably guessed that maybe our chief people officer
8 did. But I don't -- I don't -- I don't think Legal
9 did. Or maybe Jim Lyons 'cause he handles a lot of
10 that. So I don't know. I just -- I'm not sure. That
11 was around Christmas, so.

12 Q Of 2021?

13 A Yes. When that article came out and had to
14 address it.

15 Q Can you recall as you sit here today the
16 names of either the individuals or the entities that
17 reached out to you for comment in relation to that
18 article?

19 A Some people gave me an e-mail. And I just
20 said it's with Legal. I'd have to go back to look. I
21 don't -- I know a few people called me. Some people
22 from the industry who are not, were checking up to see
23 if things were okay with just myself dealing with
24 this. Other business owners. But I don't -- I don't
25 remember everybody.

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1 Q Okay. So you think you received some
2 e-mails asking for either comment or just checking in
3 on you regarding the article that was published? And
4 you think some of them were received via phone call?

5 A Some were phone calls. Some were texts.
6 Some were phone. E-mail. Excuse me.

7 I know that I reached out proactively to the
8 Mortgage Bankers Association because I'm the -- I am
9 the executive council co-chair. So I said look.
10 Hopefully this doesn't give you guys any stress. So I
11 reached out to the CEO and the COO.

12 Q All right. Did you reach out to them via
13 e-mail or phone call or through what means?

14 A I sent them the article so that they would
15 be informed 'cause that's sometimes what the press
16 will ask a lot of questions because I happen to be in
17 the trade association, on the board, and things like
18 that. And then I also texted them and I spoke to
19 them.

20 Q Okay. All right. Any other communications
21 that you can recall making, whether in writing or
22 verbally, regarding responses that you made to the
23 article that was published about Ms. McCart's claims?

24 A No, ma'am.

25 Q Okay. All right. So my original question

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1 that got us down that rabbit hole was --

2 A Sorry. I need to just shut up.

3 Q No. No. Listen, it's not your fault. That
4 got us down that rabbit hole was regarding whether you
5 conducted any independent investigation into
6 Ms. McCart's complaint about Mr. Moloughney.

7 Did you have any conversations directly with
8 Mr. Moloughney about Ms. McCart's claims?

9 A Well, I had to ask him about it. Is this
10 legit? He said that they did have something that went
11 on. And I said well, it's a legal matter now. And we
12 have to investigate it. And I will tell you upon
13 further notice what the outcome is.

14 Q Okay. Was Mr. Moloughney disciplined,
15 suspended, reprimanded, coached or in any way given
16 any negative consequence as a result of Ms. McCart's
17 claims?

18 A Obviously he reports to me, so that's pretty
19 bad if it gets to me. And we had a long conversation
20 that I just said look. This is unbecoming. This is
21 behavior that shouldn't be done. And I don't care if
22 it's consensual.

23 Because of that we put in a very strict
24 policy after that that if you're C-level and later
25 down the road you're -- you're -- of anything of that

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1 nature we put the policy in 'cause we had to wait till
2 everything was done in I want to say, like,
3 June -- that it's a terminable offense even if it's
4 consensual and everything is good.

5 It just is not C-level behavior as I would
6 say. Or I didn't think it lived our 4CORE of our
7 culture.

8 And after that he does have a weekly one-
9 hour session with a business coach that all this has
10 to get resolved and everything of that nature. So he
11 did get coaching. He did get reprimanded. And he did
12 acknowledge that.

13 Q Okay. Was that coaching or reprimand
14 documented in any way?

15 A I don't know. I know it was verbal but I
16 don't know if I put it in -- I didn't -- I didn't put
17 it in writing but I don't know if I told HR and then
18 they put it in writing.

19 Q Okay. And the business coaching that he
20 has, do I understand you correctly that that business
21 coaching he receives relates in some way to his
22 conduct towards employees?

23 A Just overall, you know, level up as a leader
24 because this is stuff that should have mentally hit
25 his head ahead of time.

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1 Q Okay. And you said he receives that
2 business coaching weekly?

3 A Yes.

4 Q And from whom does he receive the coaching?

5 A The gentleman's name is Michael Allosso.
6 It's independent, and I don't get coached by him. The
7 executives do. I keep that separate.

8 Q When you say the executives, you mean all
9 the executives, not just Mark?

10 A Correct. Today.

11 Q So that business coaching that Mr.
12 Moloughney receives isn't some consequence of
13 Ms. McCart's claims; it's something that all
14 executives receive?

15 A No. Not at the time. Today they do. Now
16 we've put in a policy that every executive has to get
17 coached by this person. But at the time that was part
18 of dude, you can't. You can't. So back then that
19 was. Today it's just automatic.

20 Q Okay. So the business coaching was a new
21 requirement that was put into place after Ms. McCart's
22 claims were made?

23 A Some people were already on there. But yes.
24 Him. Yes.

25 Q Okay. Understood. I believe you also

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1 mentioned that there was a policy created in June of
2 2021 about no fraternization or relationships between
3 C-level employees and any other employee of the
4 company. Is that correct?

5 A Yeah.

6 Q Did I describe that policy correctly? That
7 no C-level employee can have any relationship or
8 fraternization or sexual intercourse with any --

9 A After that date we said look, guys. We've
10 examined everything. Anything prior to that, it's a
11 different conversation. But here's, like, you know,
12 when a new law passes, this is the new -- the new
13 rule. We had it on our executive call. And, you
14 know, we made that a very standard. Everybody voted
15 in full unanimous. And we left it at that.

16 Q Okay. And that policy took effect in
17 approximately June of 2021?

18 A We'll say summer as I have to summarize
19 'cause I may be off by a month.

20 Q Okay. Did Mr. Moloughney receive any
21 coaching, counseling, or discipline as a result of the
22 relationship that he has with an employee named Jamie
23 that's out of Texas with EPM?

24 A She's no longer with us. What do you mean?
25 Coaching on that?

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1 Q Yes. As a result of his relationship with
2 her.

3 A Well, that happened prior to that June. And
4 that's where we came to that conclusion. And then
5 they had disclosed it fully to HR as soon as it
6 happened that it was consensual.

7 And then we just put in the behavior 'cause
8 I just said that that's just not going to be part of
9 our culture anymore.

10 And it was after June at some point only
11 because that was a discussion at our strategic. That
12 just jogged my memory.

13 Q Okay. What was after June at some point?

14 A That policy that it doesn't matter. What's
15 done is done. I understand that. Both of y'all are
16 going through a divorce. You're finding yourselves.
17 But after this it doesn't matter. And he's very well
18 aware of that.

19 Q Okay. When was the relationship between
20 Jamie and Mark disclosed to EPM?

21 A I'm not sure. I don't -- I don't remember.

22 Q To whom did Mark disclose his relationship
23 with the other female employee of Equity Prime
24 Mortgage?

25 A I know he went to HR. I know they went to

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1 HR. And they signed forms.

2 Q Okay. Can you tell me Jamie's last name?

3 A Oh, God. She had two. I think Rice. At
4 least that's what's on LinkedIn. Oh. Wait. No. Or
5 is that LaCorte? Do you want me to look it up?

6 Q Sure.

7 A It's easier that way. Well, I -- well, I
8 think one is one and then the other is the other. So
9 I've just got to be clear.

10 Jamie. Is that how it's spelled? LaCorte.
11 Rice LaCorte. I guess I got it all right.

12 Q You did. Good job. Okay. So your
13 understanding is that Jamie and Mark both went to HR
14 and signed forms disclosing their relationship?

15 A Yes.

16 Q Is that correct? And was that disclosure
17 made before or after this new policy that you've
18 described that prohibits these types of relationships?

19 A Before.

20 Q Before. And you said that Jamie is no
21 longer employed by the company. What resulted in the
22 end of her employment?

23 A She got a big offer when the market was
24 still hot to go to Tavant I want to believe.

25 Q Okay. So she resigned from the company?

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1 A She did.

2 Q Okay. And do I understand your testimony to
3 be that Mark received no disciplinary action as a
4 result of this relationship with Jamie? It was
5 accepted because it was disclosed before the policy
6 was created?

7 A Correct.

8 Q Okay. So I want to go back to what we were
9 talking about as it relates to your conversation with
10 Mark about Ms. McCart's complaints. I believe that
11 you said that in response to you asking him about
12 Ms. McCart's complaints, Mark said that there was
13 something that happened between the two of them. Is
14 that correct?

15 A Correct.

16 Q Can you describe for me what Mark told you
17 happened between him and Ms. McCart?

18 A I mean, I know it went on at the apartment.
19 And I know that -- what else did he -- I said look. I
20 just need to know if sex was involved. If there was
21 anything that was involved, I need to know. And he
22 once again said no sexual intercourse.

23 So like I said I think they -- from what
24 I've gathered and -- that they fooled around and that
25 was about it.

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1 Q Okay. And did Mr. Moloughney describe to
2 you what fooled around meant in the context of his
3 interaction with Ms. McCart?

4 A I didn't dig deeper.

5 Q Okay. Did he indicate to you that that
6 interaction between the two of them was consensual?

7 A Yes.

8 Q Did he ever express to you in any way that
9 Ms. McCart had told him no or stop?

10 A He did not.

11 Q Did he ever express to you in any way that
12 Ms. McCart said to him this isn't happening?

13 A Not that I recall.

14 Q Okay. Other than that conversation that you
15 described happening with Mark, did you talk to anybody
16 else for the purposes of gathering information about
17 what happened in relation to Ms. McCart's complaints
18 of sexual harassment?

19 A Not outside of when I explained it to the
20 groups. To the group of executives and other people
21 I've -- I've let them explain just what's going on.
22 And then I said it's -- it's a legal matter.

23 People are very respectful when you say it's
24 a legal matter. They -- I don't know if they think
25 they're going to get themselves in trouble. But if

1 that's what works, cool.

2 Q Okay. So my question -- I do understand
3 what you mean about having notified everyone of the
4 complaint and requested they, you know, not talk about
5 it further.

6 What I'm asking you is other than talking to
7 Mark in the way that you've described, did you talk to
8 anybody for the purposes of gathering information as
9 opposed to providing information?

10 A The only thing could say and I don't know if
11 this constitutes it. Jason and I discussed it 'cause
12 he was obviously on the e-mail and everything like
13 that. And that's who told me. But not anything like
14 detailed or anything like that. No.

15 Q Okay. When you say that's who told you, you
16 mean Jason is the one that told you about Ms. McCart's
17 complaint?

18 A Yeah. He said check my e-mail, like I was
19 earlier.

20 Q And to the best of your ability describe for
21 me the nature of the conversation between you and Mr.
22 Callan about Ms. McCart's complaint.

23 A In what sense? Just that it occurred? Or
24 his own thoughts? Or anything like that?

25 Q Well, you said you spoke with him because he

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1 was the one that told you about it.

2 A Mm-hmm.

3 Q So I'm asking what did you speak with him
4 about?

5 A Well, first of all, he said check your
6 e-mail. And I was, like, okay. What is it about? He
7 said that Tiar had filed a complaint.

8 So then I had to go check my e-mail. And
9 then look at it all. And then that's pretty much it.
10 You know, outside of that I said look. I'm pretty
11 sure HR or somebody is going to get with you.

12 And he was there when I told Jim Minghini
13 'cause we were all together as well as the other
14 execs.

15 Q Okay. Was Mr. Callan there when you told
16 Mark Moloughney as well?

17 A Yeah. Every exec was.

18 Q All the execs were there when you told them
19 about --

20 A 'Cause it was our retreat. It was our
21 retreat. Yeah. And if they weren't there, like,
22 right next to us, we were all together and we -- we
23 had it within 30 seconds.

24 Q Okay. And when you say all there together,
25 that's what you're talking about in reference to you

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1 being at the airport together?

2 A Yes. Yes.

3 Q Okay. I want to back up to talk to you
4 about Ms. McCart's performance a bit more and your
5 conversations with Mr. Carpitella about that.

6 When we were speaking about that earlier,
7 you mentioned that Mr. Carpitella had, I believe you
8 said, interviewed Ms. McCart a couple of times. Did I
9 understand that correctly?

10 A If you want to call it. I mean, he
11 reinterviewed her I guess is the best way to put it.
12 Or asked her a lot of questions about what she knows
13 about the job.

14 Q Okay. When did Mr. Carpitella explain to
15 you that he had had this conversation with Ms. McCart?

16 A Like I said, it was either late January or
17 early February.

18 Q Okay. And what did you understand to be the
19 content of that conversation between Mr. Carpitella
20 and Ms. McCart in late January or early February?

21 A I mean, the only content was just her -- her
22 performance and her knowledge. Like, what had been
23 done for the last four months. And if she understood
24 the role 'cause from what I've been informed, she had
25 a couple different positions prior. 'Cause I believe

1 she started there in 2020.

2 Q Do you know when Ms. McCart took on the
3 processing role?

4 A I do not.

5 Q Okay. Do you know how long she had been in
6 the processing role when Mr. Carpitella had this
7 conversation that you're describing with her?

8 A I do not.

9 Q Okay. Do you know if Mr. Carpitella spoke
10 with Ms. McCart during this conversation that you've
11 described about anything other than just asking her
12 questions related to her knowledge and understanding
13 of her role?

14 A No. I'd say that's a Steve Carpitella
15 question.

16 Q Okay. Well, I guess I'm asking what he
17 expressed to you about this conversation that you've
18 described.

19 A That was the gist of what we spoke about.

20 Q Okay. Did Mr. Carpitella indicate to you
21 that he advised Ms. McCart that he had concerns about
22 her performance?

23 A I can make an assumption, but I won't.

24 I -- I would -- I can't recall.

25 Q Okay. You can't -- just to clarify that

1 answer. You cannot recall whether or not
2 Mr. Carpitella ever told you that he told Ms. McCart
3 about the concerns about her performance?

4 A Yeah. I don't know if he had that
5 conversation with her. I mean, I would guess, but
6 we're not in a guessing game.

7 Q Okay. Did he tell you that he told Ms.
8 McCart he had concerns about her performance?

9 A Like I said, I can't say with 100 percent
10 accuracy. If I had to -- if I had to bet money, I
11 would say yes. But this is about not just betting
12 money.

13 Q Okay. That's fair. Okay. So aside from
14 this conversation that we've described between
15 Mr. Carpitella and Ms. McCart where we're calling it,
16 sort of, a quasi reinterviewing of her. Is that fair
17 to say?

18 A Yeah. Sure. Yes.

19 Q Did Mr. Carpitella ever inform you of any
20 other conversations that he had directly with
21 Ms. McCart about either her productivity or her
22 performance?

23 A I know they had multiple talks. It wasn't
24 just one, done.

25 Q Okay. How do you know that?

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1 A He told me that they had -- I mean, I would
2 say at least two, but I know Steve. It had to be
3 more. But I -- I can at least tell you two, but once
4 again like I said, if I had to put money on it, I'd
5 say it was more.

6 Q Okay. When was the second one that you know
7 for certain happened? The conversation between
8 Mr. Carpitella and Ms. McCart?

9 A I know it went -- it either went -- it
10 either went Ali, Steve, Ali, Steve. Or it went Steve,
11 Ali. Like, there was -- by the time I talked to him,
12 you know, I know that he had talked to Ali at least
13 once. I'm not sure if it was twice. But I know that
14 him and Ali had spoken with her.

15 Q Okay. Meaning, the two of them together had
16 a conversation with Ms. McCart?

17 A Separate. Separate.

18 Q So I'm not sure I follow your response so
19 let me ask you --

20 A Okay. Sorry. Apologies.

21 Q -- just to -- it's not your fault. It's
22 probably mine, frankly.

23 Your understanding is that there was at
24 least one conversation for certain between
25 Mr. Carpitella and Ms. McCart wherein he talked with

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1 her about her knowledge of the role and her
2 performance?

3 A No. I'd say there's -- I know there was at
4 least two 'cause I know he talked to two. And I know
5 that those were the subject matters. I just don't
6 know if he had talked to Ali twice about it or once.
7 He had talked to me.

8 Q I see. Okay. So my question for the moment
9 is only about conversations between Mr. Carpitella and
10 Ms. McCart --

11 A Okay.

12 Q -- that he explained to you that occurred.
13 So let's remove Ali from the equation --

14 A Okay.

15 Q -- for the moment. So I believe you have
16 testified that the first conversation Mr. Carpitella
17 informed you he had with Ms. McCart was in late
18 January or early February. Is that correct?

19 A That's correct. Yes.

20 Q Do you have any understanding of when the
21 second conversation Mr. Carpitella told you that he
22 had with Ms. McCart about her role and her performance
23 was?

24 A I mean, I would say shortly after. A week.
25 A week and a half if I had to --

1 Q Early to mid-February?

2 A Yeah. Towards the -- you know, February is
3 almost, like, you know -- mid-February is almost the
4 end of February just 'cause it's a short month. So,
5 like, in that second to third week of the month I
6 would say. I know that -- okay. Yeah. I won't talk
7 about Ali.

8 Q Okay. We will get to Ali. I promise.

9 What did Mr. Carpitella tell you was the
10 nature or topic of that second conversation he had
11 with Ms. McCart?

12 A With her?

13 Q Yes.

14 A That's why I said is I don't recall myself
15 100 percent, but if I had to speculate I'm -- Steve's
16 not somebody that doesn't embrace conflict and really
17 in a very professional way. He's just very matter of
18 fact 'cause he's a former accountant. I'm sure he
19 laid out his thoughts.

20 I just don't recall what thoughts. What
21 part of it. If it was just the performance or I know
22 that he had talked to her about knowledge. Ali
23 had -- so I'm just not sure exactly the parameters is
24 probably the best way to put it.

25 Q Okay. Why was Mr. Carpitella having these

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1 conversations with Ms. McCart in late January, early
2 to mid-February of 2021?

3 A He had taken over as chief retail officer.
4 And she was processing, which was moving under all of
5 that. Parts of it were already there ahead of time.
6 But she was transitioning fully.

7 And he was -- we were dividing up what is
8 over ops. We removed processing out of it 'cause we
9 viewed it more as a sales function 'cause it's sales
10 support. So it is an ops job per se by technique, but
11 we viewed it as more of a sales support 'cause they're
12 very vital to the consumer.

13 Q Okay. At the time that Mr. Carpitella had
14 these conversations that you've described with Ms.
15 McCart in late January, early February of 2021, was he
16 supervising her role?

17 A I'm pretty sure it was Ali that was
18 supervising it. And she -- and I mean, he's the
19 responsible 'cause he's the -- he's the leader and
20 then there's Ali and then the employee.

21 Q Okay. So he was not her direct supervisor
22 at the time that he would have been having these
23 conversations with her?

24 A He's over the whole channel, so I guess it's
25 like -- I guess to use an analogy, everybody says that

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1 almost 500 employees, I'm their boss. I keep telling
2 them I'm not because I don't have time for that.

3 So I would say that it was his
4 responsibility because that was. And it was his
5 system that he had created as well.

6 Q Okay. So what I understood your testimony
7 just now to be was that at the time that these changes
8 were occurring, Ali would have been Ms. McCart's
9 direct supervisor and Ali would have reported to Mr.
10 Carpitella. Did I misunderstand that?

11 A No. That's correct.

12 Q Okay. So then in response to my question
13 about who Ms. McCart's direct supervisor is, it would
14 not have been Mr. Carpitella?

15 A No. It would have been Ali.

16 Q Okay. Understood. When did Ali become Ms.
17 McCart's direct supervisor?

18 A The same time Steve would have taken over
19 that channel because she was already in that role.
20 She's been with us a long a time in that senior vice
21 president role.

22 Q Okay. And I was just about to ask you. So
23 Ali's position was a senior vice president?

24 A Mm-hmm.

25 Q Is that a yes?

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1 A Yes. Yes. Sorry.

2 Q No problem. Okay. So when you say in that
3 same time, you're talking late January, early
4 February, mid-February time frame?

5 A Well, we had made the announcement that
6 Steve was taking over all of retail as the chief
7 retail officer and we had listed out the new roles.
8 And then they were putting it all together.

9 Q Who was putting what together?

10 A Steve and Ali 'cause they were moving. And
11 Jason. 'Cause they were moving some things off Jason
12 under that realm. Because of the past it was just
13 regional. And we were making it national. Like,
14 company-wide.

15 Q Okay. Do you know when Ms. McCart was
16 officially moved out of Jason Callan's supervision
17 into Ali's?

18 A I mean, I know they had an introductory
19 call, but I don't know the exact dates. But I would
20 say it was probably obviously before Steve and Ali
21 reinterviewed her. So if I had to guess, I'd say
22 probably -- God. When the hell was EPMX? The second
23 week of February? I mean, January. Third.

24 Mid-month or so. Mid to third week I would
25 guess.

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1 Q Of what month?

2 A January.

3 Q Of 2021?

4 A Correct.

5 Q Okay. So by mid-January of 2021, Jason
6 Callan would have had no more responsibilities to
7 supervise or manage Ms. McCart?

8 A Or -- or by the end of that month. Yes.
9 Somewhere in that time point.

10 Q Somewhere --

11 A I don't know exactly know exactly when that
12 handoff was. I don't know the exact date.

13 Q Somewhere in the month of January, Jason
14 Callan would have had no more involvement in Ms.
15 McCart's, you know, management or supervision?

16 A Unless she went to him to ask a question.
17 But not on paper and not on what we were doing
18 anywhere transitioning. I know that she sat right
19 outside his office. So I don't know if he said hello
20 or something.

21 Q Right. I guess what I'm talking about is
22 not just their ability to communicate with each other.
23 I'm talking about his -- as it being part of his
24 job --

25 A He left in January at some point.

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1 Q Okay. So as of some point in January of
2 2021, Jason Callan had no further supervision or
3 responsibilities or obligations over Tiar McCart?

4 A Correct. And any processor.

5 Q And any processor. And he would not have
6 been making any decisions related to her employment
7 whatsoever after that time period?

8 A Correct.

9 Q He wouldn't have had the authority to make
10 decisions related to her employment after January of
11 2021?

12 A He could have recommended, but not to your
13 point. It's not his -- his call.

14 Q Okay. Did Mr. Callan ever recommend that
15 Ms. McCart should be terminated?

16 A Good question. Did he? I don't -- I don't
17 recall. I don't know.

18 Q Did he ever express to you that he had
19 concerns about her employment?

20 A When? Then?

21 Q At any time. Did Mr. Callan ever come to
22 you and say I have concerns about Ms. McCart's ability
23 to perform her job?

24 A I don't -- I'm not sure. I don't know. I
25 don't know if he did or didn't.

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1 Q Okay. The other thing that you mentioned is
2 that during this same time in early January -- excuse
3 me. Late January, early to mid-February, Ali was also
4 meeting with Ms. McCart. Is that correct?

5 A Yes.

6 Q And did Ali talk to you about the meetings
7 that she had with Ms. McCart?

8 A No.

9 Q Okay. How did you know she was having those
10 meetings?

11 A Steve told me.

12 Q Okay. So Ali communicated with Steve about
13 her meetings with Ms. McCart. And then Steve passed
14 along that information to you?

15 A Correct.

16 Q Okay. Given that chain of information, how
17 many times were you informed that Ali met with Ms.
18 McCart?

19 A I mean, at least I'd say a handful. I'm not
20 sure if it was -- how many, but she met with her. I
21 know that. More than -- more than once.

22 Q More than once. Okay. Did Steve explain to
23 you what the purpose of Ali meeting with Ms. McCart
24 more than once was?

25 A Well, they were evaluating everybody. And

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1 they wanted to see if it was a -- a fit for what they
2 expected out of the -- the job and to their standards.

3 Q Okay. So Ali was not just meeting with
4 Ms. McCart, and Steve was not just meeting with
5 Ms. McCart. The two of them were also meeting with
6 every other person in the processing role?

7 A Well, that they weren't -- they were already
8 over a portion of processing. So the final pieces.
9 The integration. Whoever was part of that
10 integration.

11 Q Okay. Who was a part of that integration
12 that they would have -- that Steve and Ali would have
13 been meeting with in early -- excuse me -- late
14 January or early February of 2021?

15 A I know Jayza [ph] was one. I know that
16 Delsi [ph] was one. I know that he met with Felix in
17 Orlando. And a lot of the processing to get them on
18 the processing system. But they report up there. But
19 they handle theirs.

20 So I think, you know, he talked to a lot of
21 people. I know he talked to Sam Patel's team. So he
22 talked to a lot of the processing teams. 'Cause at
23 one point in time you had Steve's system that was the
24 largest before he got promoted because he was a
25 regional.

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1 And then that system is what became the
2 norm. So it was that integration of all the other
3 ones. I guess the saying is burning down the silos to
4 go under one.

5 Q Okay. So do I understand correctly that as
6 a result of this burning down the silos to make one,
7 sort of, line of reporting, Steve was meeting with
8 these processors at these different locations for the
9 purposes of evaluating their strengths and weaknesses
10 in their role?

11 A Yes.

12 Q Okay. And in doing that, he was reporting
13 back to you what he found after those meetings with
14 each of the individuals that he interviewed?

15 A Correct.

16 Q Okay. Now we talked about this for a moment
17 earlier, and I want to make sure I understand.

18 After all of -- Steve had conducted all of
19 those meetings and was reporting back to you what he
20 found, do I understand correctly that the only two
21 individuals he expressed any concerns about to you
22 were Ms. McCart and Delsi [ph] Padilla?

23 A Yes.

24 Q Okay. There was no one else that he felt
25 concerned could not perform the role?

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1 A Well, he was concerned with Jayza [ph] but
2 he thought that he -- she had demonstrated certain
3 actions and he thinks he could -- he could get her
4 there.

5 Q Okay. So he only had concerns about three
6 individuals who were three women in the Atlanta
7 office. But of those three --

8 A He had concerns with Felix in Orlando
9 and -- God. What's his -- his last name is Holt.
10 Travis. I know he had some concerns with -- oh, my
11 gosh. Of course I don't remember his name. A short
12 guy. He had concerns with a few of the people, but
13 his -- Steve's a guy that likes to give people a lot
14 of chances. He thought he could work with them and
15 get them up to speed.

16 Q So you said there was a processor named
17 Felix in the Orlando office that he had concerns with?

18 A Well, he was the one running processing in
19 there. And he had some concerns with the system
20 there.

21 Q When you say running processing, you mean he
22 was in the processing manager role as opposed to a
23 processor?

24 A Correct. Yes.

25 Q Okay. Felix was a processing manager?

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1 A Yes. Or VP of ops. However you want to
2 call it.

3 Q Understood. What about you said there was
4 someone named Holt?

5 A Travis I believe is his -- yeah. I'm pretty
6 sure it's Travis.

7 Q And where was Travis located?

8 A He's in Orlando as well.

9 Q Okay. And was he in a processing role? Or
10 a processing manager role?

11 A He's like in an assistant role, but then he
12 still processes 20 files a month, 25. So he's one of
13 those, you know, like, team leads that do a little bit
14 of both.

15 Q Okay. But nonetheless, Steve had concerns
16 about Mr. Holt's performance?

17 A Yeah. As well as -- one person's -- and
18 then I forget his name. Oh, my gosh. Of course I'd
19 forget his name.

20 Q So there was a third person that you're
21 trying to think of the name of right now?

22 A And then he had a concern with somebody else
23 somewhere, but I don't -- I don't remember where. I
24 don't remember who. Probably a better way to put it.

25 Q So there were -- to your recollection, the

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1 individuals that Steve expressed to you that he had
2 concerns about their performance following these
3 getting to know them meetings or interviews, were
4 Ms. McCart, Ms. Padilla, Ms. Iola -- Jayza [ph]. I'm
5 sure I'm butchering her name.

6 A No. She goes by Jayza [ph].

7 Q Felix, Travis Holt, and one other person
8 that you can't recall his name.

9 A Yeah. I don't remember his name.

10 Q Okay. And did Mr. Carpitella recommend the
11 termination of anyone other than Ms. McCart?

12 A No. He said that he thought he could work
13 with Delsi [ph]. And he thought he could work with
14 Jayza [ph].

15 I know that he did get Jayza [ph] up faster.
16 And then she wound up getting a very lucrative offer
17 to get a senior processing role at another company and
18 is still there. So she gave him a lot of credit for
19 getting her to those levels.

20 Q Okay. So Jayza [ph] ultimately voluntarily
21 left, but other than her voluntary resignation and
22 Ms. McCart's termination, Mr. Carpitella didn't
23 terminate anyone else that he had expressed concerns
24 with their performance?

25 A And yeah. And just for the record, he

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1 didn't -- you know, he expressed it, but I'm -- he did
2 not terminate Tiar himself. I did.

3 Q Thank you for clarifying that. So let me
4 rephrase the question given your clarification.

5 Other than expressing or recommending that
6 Ms. McCart's employment be terminated, he did not
7 recommend to you that any other of the individuals
8 about whom he had concerns for their performance
9 should be terminated?

10 A Not at that time. Later he did on
11 Delsi [ph].

12 Q Okay. At what point did he recommend to you
13 that Ms. Padilla should be terminated because of her
14 performance?

15 A There was a lot of the knowledge too. So I
16 think he said that -- God. That's a good question
17 'cause I'm having to now think how many months later.
18 It was a handful of months later. He just didn't
19 believe she can keep up. And there was a lot of
20 volume industry-wide coming in. So it really exposed
21 cracks on people if you can -- if you had been
22 performing at a high level or not, so.

23 Q Other than Ms. McCart who he recommended the
24 termination of very quickly after talking with her.
25 Is that fair to say?

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1 A Yeah. He -- he made that recommendation by
2 middle of February. Around that time.

3 Q Okay. And Ms. Padilla who he recommended be
4 terminated several months after meeting with her for
5 the first time. Is that correct?

6 A Mm-hmm.

7 Q There were no other processors or people
8 that were moving under his line of reporting that he
9 recommended should be terminated?

10 A No. In his opinion, he felt like they had
11 leveled up.

12 Q Okay. When we talked earlier about the
13 concerns that Mr. Carpitella expressed to you about
14 Ms. McCart you testified that there was a policy that
15 if employees didn't have enough work they were
16 obligated to raise their hand and say I need some more
17 work. Is that fair to say?

18 A Honor code. Yeah. Sure.

19 Q Okay. How is that policy documented?

20 A Good question. I don't know. I'm not sure.

21 Q How is it communicated to employees that the
22 expectation of EPM is that individuals should raise
23 their hand and come and say I need more work?

24 A That's part of the culture. That's part of
25 the culture training that we put out. That's part of

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1 our daily affirmations of do the right thing. Step it
2 up. No. That's -- that's all constantly communicated
3 and communicated and communicated. And for the most
4 part it's overwhelmingly been a huge success on the
5 honor code.

6 Q Okay. You said daily affirmations. What
7 are those?

8 A Oh. I send out daily affirmations to the
9 organization that are tied to our 4CORE values. And
10 then behaviors to back them up and things like that.

11 Q Okay. What are the 4CORE values?

12 A Show the way. Unify through collaboration.
13 Struggle well. Own unique.

14 Q Okay. And those values are communicated or
15 publicized to the employees in some fashion?

16 A Trained and everything. Yes. And
17 constantly discussed over and over and over.

18 Q Okay. What training did the employees
19 receive on these core values in the -- one of which
20 being the obligation that they should raise their hand
21 and reach out for more work if they're --

22 A So I don't know them all, but there's 23
23 behaviors. 'Cause, you know, a lot of organizations
24 will have a core value, but then it would be, like,
25 integrity. Well, okay. How do you live that? I

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1 don't know.

2 So we actually have the behaviors 'cause
3 that's what really motivates any habit. So each of
4 them have assigned behaviors, and in there is where we
5 give examples, you know.

6 We give people Kazoo points as you can call
7 it. What is Kazoo? Where there's recognition
8 throughout the organization where they for -- anything
9 that people do. And I guess the next question for me
10 is -- to you is, do you want to talk about then or
11 now?

12 Q Well, I want to talk about during the period
13 of time that Ms. McCart was employed --

14 A Got you.

15 Q -- and if there's a change we can talk about
16 that later. But for right now, you're talking about
17 behaviors that are assigned. And I believe you said
18 the employees receive training as it relates to these
19 behaviors, the core values, and the obligation to
20 raise your hand to --

21 A Yeah. We have a -- oh. That's a good
22 question. What the heck is his title? We'll just say
23 we have somebody who's in -- he's under the chief
24 people officer, but he is over culture. All
25 communication. All outward notifications. Everything

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1 like that. He leads the trainings. That's part of
2 the new hire training that gets put in.

3 Q Okay. And can you identify the name of this
4 employee?

5 A Yes. His name is Blaine.

6 Q Last name?

7 A Oh, God. I think it's like Paul McCartney
8 or something like that. Or McCarty. Or -- you'd
9 think I know it. I -- I know people's first names
10 very well.

11 Q That's fine. I'm sure his name is recorded
12 somewhere. We can find it. Let's refer to him as
13 Blaine right now just since we're --

14 A Please. Please.

15 Q -- a little confused about his last name.

16 A 'Cause I mess up last names.

17 Q So Blaine is the employee that is
18 responsible for providing this training on the core
19 values in which employees would be informed hey,
20 there's a policy based on our honor code that if you
21 need more work, you've got to raise your hand and say
22 it?

23 A Was he then? No. That's the question.
24 That's the good question. I may have talked about
25 now. Back then, would it have been Eric?

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1 I mean, I could say today, yes. Today.

2 Back then, I don't recall who was doing it.

3 Q Okay. Let me put the question to you this
4 way then: Can you identify for me some training, some
5 literature, some meeting, or any measurable
6 communication --

7 A Mm-hmm.

8 Q -- in which Ms. McCart would have been
9 informed that it was an expectation that if she was
10 not processing a requisite number of loans per month
11 or closing a requisite number of loans per month, that
12 it was her obligation to raise her hand and say she
13 needed more?

14 A That would have been Eric Skates then 'cause
15 that was part of marketing at that point before he was
16 promoted to chief people officer.

17 So I know that there was always things going
18 out about the culture and how to do the right thing.
19 'Cause that's -- out of the behaviors, that's number
20 one, because that's under show the way. Be
21 resourceful. God. Is that under struggle well?

22 I -- I don't know all 23. That's too many.
23 That's what we realized too. That you have to put
24 them in categories 'cause of what they represent.

25 Q Okay. So you believe there would have been

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1 some communication from Eric Skates to Ms. McCart, and
2 other employees, expressing to them that this policy
3 that you're referring to --

4 A Yeah. They would have calls on -- during
5 COVID in 2020 on Fridays. They would bring education
6 pieces to the table.

7 You know, at one point in time we had a
8 mental health expert talk to the organization on a
9 Zoom in 2020 about the challenges with COVID, and what
10 this is doing for stress, which is the real word for
11 anxiety.

12 So there's a lot of that cultural stuff that
13 we're leaning on. I'm not sure at that time if we had
14 the text message system up. So I'm not sure exactly
15 when the dates of what that went up. I know it went
16 up in 2021. I just don't know if it was Q1 or Q2 or
17 Q3.

18 Q Okay. Understood. So there should be some
19 documentation somewhere from 2021, notwithstanding
20 what quarter, where Eric Skates or some other employee
21 communicated to all employees here's our core values.
22 Here's these 23 behaviors that you're assigned to
23 engage in. And here's this policy that we expect that
24 you're raising your hand if you're not -- you don't
25 have enough work to do?

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1 A Yes.

2 Q Okay. And that would have been documented
3 in what form to your knowledge?

4 A I know they had, you know, Zoom calls about
5 it. I know they -- I know there's stuff in writing
6 'cause, Good Lord, they send me too much stuff to
7 approve. I'm just not artistic.

8 I know there's e-mails that go out 'cause I
9 know I send a daily e-mail every day and I have for
10 four years. And in there I put a core value.
11 Sometimes I even put behaviors to live and -- and how
12 to live them. But it's all off of BrainyQuote.

13 Q Okay. What's BrainyQuote?

14 A It's an app that you can look up any topic
15 or author and, you know, inspirational type
16 affirmation quotes.

17 Q Okay. Other than the e-mails you've
18 described and the Zoom calls I think you've described,
19 can you identify for me how this raise your hand
20 policy would have been communicated to employees
21 including Ms. McCart?

22 A Well, we were begging people to work. So
23 outside of the constant begging and the stress on
24 operations, which was daily conversations 'cause our
25 turn times fell backwards, and everybody knew it.

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1 And that was providing a stress on the
2 company and I mean, outside of sheer begging and
3 e-mail communications and conversations and Zoom calls
4 and hey, please anybody. How do we promote from
5 within? How do we grow? What can you do?

6 I'd say that they communicated it pretty
7 effectively. Just they screamed from the mountaintops
8 'cause it was -- it was a very stressful time.

9 Q So I guess my question is: Given what
10 you're saying about the communication, I'm asking how
11 was it documented? How can I -- how can you prove to
12 me that that communication went out? Is it in writing
13 somewhere? Is it in a handbook somewhere? Is it an
14 e-mail somewhere? All of the above?

15 A I -- well, I don't know if it's in the
16 handbook. I can speculate there, but I could
17 definitely tell you 'cause I know I send out daily
18 e-mails. I know Teams messages go out. So I know
19 text messages go out.

20 I know that we have happy hours that go out.
21 We have -- we had the empower hour that was every
22 Friday. I know there was a lot of speakers that have
23 been on there.

24 There's -- I'm sure there's a lot of
25 electronic proof is what I would tell you.

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1 Q Okay. Understood. If Ms. McCart's
2 testimony in this matter is that no one from Equity
3 Prime Mortgage ever indicated to her that there was
4 any concern about her performance that she needed to
5 amend or change or do better, and if she didn't she
6 would lose her job, is she lying?

7 A That if -- wait. What part of the lie?
8 Like --

9 Q I'll be glad to restate it. If Ms. McCart's
10 testimony is that no one at Equity Prime Mortgage ever
11 communicated to her that there were any concerns about
12 her performance such that if she did not change or
13 improve those concerns, that she would be terminated,
14 is she lying?

15 A Yes. She's lying.

16 Q So my question to you then is: What
17 documents, writings, text messages, e-mails, policies,
18 handbooks, et cetera, can you direct me to that prove
19 that someone told Tiar McCart, we have a concern about
20 your performance that you need to improve, and if you
21 don't, you're going to be fired?

22 A I would say from a text standpoint. So Mark
23 who's the chief technology officer is in charge of
24 security. So I'm fairly certain -- not fairly. I
25 know. He can pull the e-mails.

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1 I'm sure Eric Skates can also provide a lot
2 of information 'cause he's over people which includes
3 culture, communication.

4 Blaine can provide a lot of information.

5 Lexie wasn't on board back then yet. I -- I
6 would say that those three -- did Adair?

7 Adair, she may have been -- I know she was
8 on marketing but she did a lot on social. So there's
9 communication that goes out there and internally.
10 Videos that go out that are recorded.

11 I'd say those three to four at least.

12 Q Okay. I want to go back and re-ask my
13 question because I'm not sure that you're answering
14 it. Okay?

15 A Okay.

16 Q I just want to take another pass --

17 A Okay.

18 Q -- so we can be sure. My question to you
19 is: What documentation or evidence exists that proves
20 that someone at EPM -- any person at Equity Prime
21 Mortgage -- at any point said to Tiar McCart something
22 to the effect of you're not performing to expectation.
23 We have concerns about your performance. If you don't
24 improve, you can be terminated.

25 So do I understand your testimony to be that

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1 I should be able to go and talk to Mark Moloughney, I
2 should be able to talk to Eric Skates, and I should be
3 able to talk to Blaine, and they're going to be able
4 to provide me documentation that someone communicated
5 to Ms. McCart that there were concerns about her
6 performance?

7 A I guess that's where I got confused 'cause I
8 said culturally they talked about do the right thing.
9 Everything like that.

10 Q Right.

11 A And we have e-mails, so I said that they can
12 probably document how much we talk about culture and
13 the 4CORE and all that.

14 I know that Steve told her in the
15 reinterview process his concerns to her. I'm
16 fairly -- like I said, I said it earlier. I'm not
17 sure if he exactly, implicitly, told her but I'd wager
18 a lot if you spoke to him, he did.

19 Q Okay. So to make sure that we're clear on
20 this point, there is no documentation that you can
21 point to? No e-mail, no counseling form, no letter,
22 no text messages, no Teams messages, nothing of any
23 documentary form that would prove that someone at
24 Equity Prime Mortgage told Tiar McCart that there were
25 concerns about her performance that would lead to her

1 termination if they weren't corrected?

2 A I don't know if they did.

3 Q Okay. So the only thing that you believe is
4 that during a conversation, that there's no
5 documentation of, Steve Carpitella informed Ms. McCart
6 that there were concerns about her performance that
7 could lead to her termination if she didn't correct
8 them?

9 A Yes.

10 Q Okay. So other than that conversation that
11 was not documented, you cannot identify any other
12 evidence to me that suggests that Ms. McCart was in
13 fact informed there were problems with your
14 performance. You need to improve or you'll be fired.

15 A I don't know if they did. Could they have?
16 Absolutely. But I -- I can't say yes. I know that in
17 e-mail, anything that went out. But yes. Cultural
18 beliefs and who we are and how to live your virtues,
19 that was communicated over and over and over.

20 Q Okay. So for the record, I am not talking
21 to you in this moment about cultural beliefs or
22 cultural standards for the company.

23 I'm talking to you specifically about
24 informing Ms. McCart that her performance was
25 problematic in some way and that she needed to

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1 improve. And I will be talking to you about
2 specifically that topic for the next couple of
3 questions. And I'll let you know once we move off of
4 it. Okay?

5 A Okay.

6 Q All right.

7 THE WITNESS: Can I get ice?

8 MS. RAGAN: Absolutely. We can go off
9 the record. We'll take a break for a minute.

10 THE WITNESS: Okay.

11 THE REPORTER: We are off the record at
12 2:53 p.m.

13 (Off the record.)

14 THE REPORTER: We are back on the
15 record at 2:55 p.m.

16 BY MS. RAGAN:

17 Q Okay. So we've talked about the fact that
18 you are the one that made the ultimate decision to
19 terminate Ms. McCart's employment. Is that correct?

20 A Yes.

21 Q So did it matter to you at all whether or
22 not someone had actually communicated to Ms. McCart
23 that there was an expectation that she wasn't meeting
24 as far as it was her performance goes?

25 A Well, it was Steve -- recommended to me that

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1 he didn't think she had the knowledge base,
2 performance, and she lacked the ability to raise her
3 hand. So you got cultural in line. Yes. I -- I
4 thought that that all merited her not to be part of
5 the culture anymore.

6 Q Okay. And you made that decision based on a
7 conversation with Steve as opposed to doing any
8 independent investigation yourself into whether or not
9 Ms. McCart was actually underperforming? Whether or
10 not she had been informed of some standard she was
11 supposed to meet? And whether or not she had been
12 given an opportunity to actually meet the standard she
13 was informed she was required to meet?

14 A He gave me the numbers. He gave me past
15 performance. He gave me past behavior.

16 And, you know, I -- I trust my leaders,
17 especially Steve Carpitella. We've been together at
18 that time late 2010. So that would put it at ten and
19 a half years and there's been a lot of growth where he
20 started off as one little office and built this very
21 good, professional, takes care of the consumers very
22 well style that I agree upon.

23 So I -- and he's not somebody who -- I can
24 see your point if it was somebody who's a -- well,
25 everybody -- get fired. But he's not a -- he doesn't

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1 make a recommendation that he doesn't believe somebody
2 can make it.

3 Because he's very precise and calculated in
4 the sense of likes to give people chances which has
5 worked out well. He likes to -- he's not -- he's
6 not -- I take his recommendations higher because he's
7 not emotional. You know, he's not going to be fired
8 up. He'll just say look. I think I can get them
9 there. Or no. I can't. And I respect that.

10 Q Okay. So the answer to my question then is
11 no. I, Eddy Perez, did not take any action whatsoever
12 to verify whether or not what Mr. Carpitella told you
13 about Ms. McCart's performance was accurate?

14 A Yes. Correct.

15 Q Did you ever talk to Tiar yourself? Did you
16 ever go to her and say hey, Tiar. This man that
17 you've just met for the first time is telling me that
18 you're not performing up to snuff. What's going on?

19 A I'm not sure that was the first time she
20 ever met him. Steve's around a good amount.

21 Q Okay. Let's rephrase the question.

22 A He wasn't a stranger. I'll say that much.

23 Q I guess that's not really what I'm getting
24 at. And I thought that might have been implied in my
25 question. But I'll be glad to rephrase to clarify for

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1 you.

2 The first time that she had talked to him in
3 the capacity of her -- as what you have talked about
4 moving into a role that was now going to be within his
5 line of reporting --

6 A Correct.

7 Q -- did you ever after that reach out to her
8 and say hey, Steve is telling me there's a problem
9 with your performance. What's going on with you? Why
10 aren't you performing? Why aren't you asking for more
11 work if you don't have enough work?

12 A No.

13 Q But nonetheless you would have seen her on
14 every day that you were both in the office.

15 A No. I would have said hello. You asked did
16 I talk to her about her performance. I talked to her
17 about how she's doing. But no. That's, you know.

18 Q So you -- my point is that you had the
19 opportunity to talk to her about her performance
20 because you both worked in the same office, and you
21 would have routinely when you were in the office
22 together have exchanged pleasantries with her.

23 A No. I -- only the people that I -- report
24 to me do I have those conversations. Because if not,
25 I'll neuter them as leaders. No. I will not destroy

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1 somebody's empowerment.

2 Q Okay. But you're the person that made the
3 decision to terminate Ms. McCart. Right?

4 A Mm-hmm.

5 Q So I'm asking you, given that you made that
6 decision, why didn't you take the moment to say here
7 to this woman who you see in the office routinely, who
8 you exchanged pleasantries with routinely before
9 leaping to a termination, say to her hey, I'm being
10 told that you're not working. Hey, I'm being told
11 you're just sitting here collecting a paycheck?

12 A Not my place.

13 Q Okay. In the course of you working in the
14 same office as Ms. McCart, did you ever witness or
15 overhear anyone making comments to Ms. McCart about
16 her appearance?

17 A No.

18 Q You never witnessed or overheard anyone
19 describing Ms. McCart's body or the features of her
20 body or the way that she looked?

21 A No. I don't recall.

22 Q You don't recall? Or no; it didn't happen?

23 A I mean, to me I'd say no. But I don't -- I
24 don't recall anybody or anything ever happening like
25 that.

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1 Q Okay. Is it possible that you did in fact
2 witness or see people making comments to Ms. McCart
3 about her appearance, and you just don't remember them
4 at this moment?

5 A I'd say no.

6 Q Okay. Did you ever witness anyone having
7 decorated Ms. McCart's desk with either penis or
8 sperm-shaped confetti?

9 A No.

10 Q Okay. Were you aware that that occurred?

11 A No.

12 Q To this day as you sit here today, you have
13 no knowledge of the fact that Ken Hartman has admitted
14 that he decorated Ms. McCart's desk with what he
15 described as sperm-shaped confetti?

16 A I think maybe Seth told me. But no.
17 Never -- but that was in the Complaint, I believe.
18 Something was described, but I don't -- I don't know
19 details. I didn't ask.

20 Q Okay. To your knowledge has anyone at any
21 time -- whether it be at the time that Ms. McCart was
22 still employed or even now that you're learning new
23 information through her Complaint -- taken any action
24 as it relates to the fact that Ken Hartman decorated
25 Ms. McCart's desk with sperm-shaped confetti according

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1 to his testimony?

2 A I don't think anybody was aware. I don't
3 think HR was aware or anybody like that. I don't
4 think -- I mean, I'd have to speculate here. But I
5 don't think Ms. McCart went and told HR, or there
6 would have been obviously something done. But I
7 don't -- I ...

8 Q You yourself said that you learned through
9 her Complaint that she made that allegation. Correct?

10 A Yeah. Or my conversation.

11 Q So you as the CEO and president of the
12 company know that an employee who is still currently
13 employed by the company decorated a woman's desk with
14 confetti shaped like sperm, according to him?

15 A I had just found out by you it was him. I
16 had heard but they said it was a legal matter. And I
17 left it at that with the professionals.

18 Q Okay. So you did not take any action to
19 either delegate to someone or you yourself to
20 investigate whether or not that allegation that you
21 heard about through the Complaint was in fact true or
22 if there was any employee that was willing to admit
23 that they had in fact decorated her desk with sperm-
24 shaped confetti?

25 A I don't know if HR had inquired. But I

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1 wasn't made aware. If I'd made aware, it would have
2 been a, you know, different conversation. But you
3 just made me aware, so.

4 Q Well, you testified a moment ago that you
5 saw the allegation in Ms. McCart's complaint that was
6 filed --

7 A I heard about it.

8 Q -- several months ago.

9 A I didn't read it.

10 Q Okay. You were told by Seth?

11 A Yes.

12 Q Okay. So you were told by Seth about that
13 allegation at some time in relation to the Complaint
14 Ms. McCart made? The lawsuit.

15 A Not about the penises on desks. Stuff like
16 that. I just knew that there was, as I'll call them,
17 shenanigans. And I just said okay. We got to figure
18 out if it's legit or not. And you just told me about
19 Ken. So I just -- I don't know.

20 Q So at the time that Seth told you, what
21 action did you take to discover whether or not any of
22 the allegations of Ms. McCart's lawsuit did actually
23 occur, including but not limited to the sperm-shaped
24 confetti on her desk?

25 A I was going to let the legal proceedings

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1 handle it all.

2 Q Okay. So the response to my question is:
3 You did not take any action after learning through
4 counsel that Ms. McCart had alleged that an employee
5 decorated her desk with sperm or penis-shaped confetti
6 to determine if that actually did happen? You were
7 just allowing the legal proceedings to play out?

8 A Correct. Yes.

9 Q Okay. Were you ever aware or did you ever
10 witness employees wearing T-shirts with a picture of
11 Ken Hartman's face and the word dickman underneath
12 him?

13 A No.

14 Q Okay. As you sit here today have you ever
15 heard anything about employees of Equity Prime
16 Mortgage making T-shirts that have a picture of Ken
17 Hartman's face on them and the word dickman on it?

18 A No.

19 Q Okay. So me saying this to you right now is
20 the first time you've ever had any indication that
21 such T-shirts were made and worn by employees of
22 Equity Prime Mortgage?

23 MR. WILSON: Objection.

24 But you can answer.

25 THE WITNESS: Yes. This is the first

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1 I'm aware of it.

2 BY MS. RAGAN:

3 Q Okay. Were you ever made aware or did you
4 ever witness any employee of Equity Prime Mortgage
5 having a bumper sticker on their car that had the word
6 dickman on it?

7 A No.

8 Q Were you ever aware or did you ever witness
9 any employee of Equity Prime Mortgage referring to Ken
10 Hartman as dickman?

11 A No.

12 Q Were you ever aware or did you ever witness
13 or did you ever participate in referencing or pointing
14 to a ruler or yardstick for the purpose of indicating
15 the size of Ken Hartman's penis?

16 A No.

17 Q Were you ever at any time prior to your
18 testimony here today made aware that Ken Hartman sent
19 an e-mail to C-level executives of Equity Prime
20 Mortgage with a picture that he took from Ms. McCart's
21 Facebook page with the title Ass, A-S-S, a Nine, as in
22 the number nine, making a reference to her body?

23 A Nn-mmm. No executives. Nothing.

24 Q Okay. So as you sit here today, the first
25 you've ever heard about the reference to that e-mail

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1 was me just telling you that Ken Hartman sent that
2 e-mail?

3 A Yes.

4 Q Okay. Is that a violation of the company's
5 sexual harassment policy?

6 A I don't know everything that's in the sexual
7 harassment policy. You know, so I can't speculate on
8 that. However, finding out this information
9 definitely shines a different light.

10 Q So I just want to clarify something. You're
11 the CEO and the president of Equity Prime Mortgage.
12 And as you sit here today, you cannot tell me if an
13 employee sending an e-mail where he's taken a picture
14 from a female's internet page and made a reference to
15 her ass being a nine, is a violation of your company's
16 sexual harassment policy?

17 A I haven't read the whole thing backwards and
18 forwards. Do I -- can I speculate? I'm sure it is.
19 But I -- you're asking me for 100 percent. I could
20 probably give you 95 percent.

21 Q You're right. I am asking you for 100
22 percent certain. If you're a CEO and a president of a
23 company, I would expect that you'd be able to tell me
24 whether a picture of a female's rear end in a bathing
25 suit being referenced as ass-a-nine is a violation of

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1 the sexual harassment policy or not. So --

2 A I don't know what's in the policy.

3 Q -- what I'm understanding you --

4 MR. WILSON: Let her finish.

5 THE WITNESS: Oh. Sorry.

6 BY MS. RAGAN:

7 Q My understanding your response to that
8 question is that you can't answer that for certain.
9 Is that right?

10 A Well, I can't answer if it's in the -- it's
11 in the book. I mean, if you're asking me personally
12 that's a different conversation.

13 Q You are the CEO and president of Equity
14 Prime Mortgage. I'm not asking you in your personal
15 capacity. You are the head of the company. You're at
16 the top of the food chain.

17 I am asking you: Does it violate your
18 company's sexual harassment policy for an employee to
19 send an e-mail making a reference to a female
20 employee's body parts as being ass-a-nine?

21 A I don't know. I can assume, but I don't
22 know.

23 Q As the CEO and president of Equity Prime
24 Mortgage, is it a violation of your company's sexual
25 harassment policy for another employee to decorate a

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1 woman's desk with confetti shaped like sperm or
2 penises?

3 A Like I said, I haven't read the thing. I
4 would like to read it first before I would go on. You
5 know, like I said you're telling me not to assume so
6 that's why I say I don't know. It could be a yes. It
7 could be a no.

8 Q I haven't told you not to assume. I'm
9 asking you a very straight question. You're the CEO
10 and the president of Equity Prime Mortgage.

11 Can you as you sit here today tell me
12 whether or not your company prohibits conduct
13 including decorating a woman's desk with either penis
14 or sperm-shaped confetti in the terms of your sexual
15 harassment policy?

16 A I mean, I'd just have to assume yes.

17 Q But again, you're assuming. You don't know
18 for certain?

19 A I haven't read it. I mean, I've gone over
20 it all, but I haven't read the fine print. And but
21 what I assume, yes. And this is, like I say, first
22 time I'm hearing about it. First time -- HR would
23 have brought it. Oh yeah. HR would have brought that
24 to me. These are all things that I didn't -- I'm
25 unaware of right now, so.

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1 Q These were all things that were in Ms.
2 McCart's Complaint that's been filed for months now.
3 And you're -- but you haven't looked into them, and as
4 far as you know HR hasn't looked into them. And as
5 far as you know, you can't tell me for 100 percent
6 certain as you sit here whether or not these would
7 violate the sexual harassment policy of EPM?

8 A I let Legal handle everything.

9 Q So the answer to my question is yes. You're
10 correct?

11 A Yes.

12 Q Okay. Have you ever overheard, participated
13 in, or witnessed in any way any employee of Equity
14 Prime Mortgage asking Ms. Tiar about her sex life?

15 A Nn-mmm.

16 Q Is that a no?

17 A Yeah. That's a no.

18 Q Okay. Have you ever overheard, participated
19 in, or witnessed any employee of Equity Prime Mortgage
20 asking Ms. McCart or talking to Ms. McCart about her
21 relationship status?

22 A So this is just me with Ms. McCart? Or
23 who's this with exactly? Like, 'cause I'm -- I'm
24 confused 'cause I know that DeAngelo came to me, so.
25 And then I sent him to HR, so. And HR then also spoke

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1 in the Complaint and all that. So I'm not sure if you
2 can maybe rephrase it a little bit differently.

3 Q Yeah. I'll be glad to repeat the question.

4 Have you ever witnessed, participated in, or
5 overheard any employee asking Ms. McCart about her
6 relationship status?

7 A No.

8 Q Okay. All right. I'm going to hand you
9 what's been previously marked for identification as
10 plaintiff's Exhibit 32.

11 (Plaintiff Exhibit 32 was previously
12 marked for identification.)

13 Have you seen that e-mail in Exhibit 32
14 before I handed it to you today?

15 A Nope.

16 Q This is the first time you're seeing the
17 document in front of you that's labeled as Exhibit 32?

18 A Correct.

19 Q Okay. Set that down. You're welcome to look
20 at it, but I'm not going to ask you any more questions
21 about it.

22 A No. I don't.

23 Q Have you ever participated in -- well, let's
24 classify this question.

25 Other than what you have described your

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1 conversation with DeAngelo being about Ms. McCart,
2 have you ever asked any employee of Equity Prime
3 Mortgage whether or not they had sex with Ms. McCart?

4 A I mean, I asked Mark when the Complaint came
5 out.

6 Q Okay. Other than DeAngelo and Mark, have
7 you ever asked any employee whether they had any type
8 of sexual interaction with Ms. McCart?

9 A I asked when -- when -- when Jeff came to me
10 concerned, and I sent him to HR. I asked, did you do
11 anything. I didn't -- I wouldn't say it was sex. I
12 was just saying in general.

13 So I'd say outside of those three that I
14 talked about earlier, no. I have not.

15 Q Did you ever ask Alex Rodriguez whether or
16 not he had had sex with Ms. McCart?

17 A Alex Rodriguez?

18 Q Yes.

19 A The baseball player?

20 Q Not the baseball player.

21 A I don't know an Alex Rodriguez outside of
22 what was formerly one of my favorite baseball players
23 till ...

24 Q Well, I may be mispronouncing his last name
25 or misstating his last name, I should say. Give me

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1 just a moment.

2 A Are you talking about Alex Restrepo?

3 Q Yes. Thank you. Yes. You're right. Thank
4 you for clarifying.

5 Have you ever had a conversation with Alex
6 Restrepo about whether or not he had had any type of
7 sexual relationship with Ms. McCart?

8 A No.

9 Q You never asked him whether he had had sex
10 with Ms. McCart?

11 A No.

12 Q You never spoke to Alex Restrepo and said to
13 him did you hit that in reference to Ms. McCart?

14 A No.

15 Q If Alex says otherwise, is he lying?

16 A Yes.

17 Q Okay. As a part of Ms. McCart's Complaint
18 she's referenced an event that Equity Prime Mortgage
19 held at an Atlanta Falcons game on --

20 A Mm-hmm.

21 Q -- December 20th. Are you familiar with
22 that event?

23 A I am.

24 Q Were you present for that event?

25 A I was.

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1 Q Okay. Can you tell me generally where that
2 event was?

3 A The Mercedes-Benz in one of the suites.

4 Q Okay. And what was the purpose of that
5 event?

6 A Employee appreciation.

7 Q Okay. And were you present for that event?

8 A I was.

9 Q Okay. Approximately how many employees were
10 present?

11 A Not everybody was an employee. My son was
12 there. My hairdresser and her son were there. I'm
13 pretty sure the rest were employees. Wait. Did we
14 have a guest or a referral partner? We may have had a
15 guest or a referral -- I would say if I had to -- I'd
16 say at least if I had to give an estimation, 12 to 15
17 were employees.

18 Q Okay. Twelve to 15 employees were there.
19 How many people total were there --

20 A I think -- oh, God. Did that one hold 20 or
21 22 or -- they're suites because we didn't have a suite
22 then there. So I had to call and rent it. And we
23 were upper level. I'm not sure if that one held 18 or
24 20. I'm not sure of the full and I'm also not
25 familiar with were there certain caps because of

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1 COVID. So I can't recall exactly the number.

2 Q Okay. But approximately 20 is your
3 estimation?

4 A Yeah. It's a good number.

5 Q So of the 20, 12 to 15 were employees of
6 Equity Prime, and the others were people you had
7 invited?

8 A My son and stuff like that. Yeah.

9 Q Okay. Can you tell me generally what
10 happened in the suite during that game on December
11 20th?

12 A I'm pretty sure the Falcons got their butt
13 kicked. Yeah. Tom Brady went ballistic on them. I'm
14 not a Falcons fan so I can say that.

15 I know some people celebrated. They drank.
16 A lot of people talked to my son 'cause he's -- he's
17 kind of fun and outgoing. A lot of people talked to
18 my hairdresser and her son. I -- I'd say general
19 camaraderie building.

20 Q Okay. So there -- was there food there?

21 A Yes.

22 Q There was food. There were drinks --

23 A Yes.

24 Q -- and there was conversation amongst the 20
25 approximately people that were there?

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1 A Yes.

2 Q And maybe some people watched part of the
3 game. It sounds like it was a terrible one.

4 MR. WILSON: For the Falcons.

5 THE WITNESS: Yeah. I mean, a lot of
6 people wanted to see Brady.

7 MS. RAGAN: Okay. Understood. Okay.

8 THE WITNESS: They watched that. I'll
9 tell you that. They watched Tampa on offense. We'll
10 put it like that.

11 BY MS. RAGAN:

12 Q Got it. All right. Anything that happened
13 at that event other than what we've just described?

14 A What do you mean exactly like?

15 Q Was there any other activities that
16 individuals participated in other than just generally
17 having conversation, watching the game, eating, and
18 drinking?

19 A No.

20 Q Okay. How did you get to the event?

21 A I drove.

22 Q And who rode with you to the game?

23 A First from the house was me and my son. And
24 then I picked up Sarah Rodriguez and Mark Moloughney.

25 Q Okay. That's where I got the Rodriguez

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1 from. Thank you for clarifying.

2 So you, your son, Sarah Rodriguez, and Mark
3 Moloughney rode to the game together?

4 A Correct.

5 Q All right. And when you left the game, who
6 was in your vehicle?

7 A Those four and then Tiar as well.

8 Q Okay. And where did you take those five
9 individuals total including Ms. McCart?

10 A I dropped them off right at Hammond over
11 there by the corporate apartment area. I didn't pull
12 into the complex, so. On the side over there, there's
13 like a Starbucks, a Schwab, and a building. I dropped
14 them off there.

15 Q Okay. All right. And where did you go
16 after you dropped those -- I'm assuming your son
17 stayed with you. Is that fair to say?

18 A He's in the front seat.

19 Q Okay. So your understanding is that you
20 were driving, your son was in the front passenger
21 seat, and Mr. Moloughney, Ms. Rodriguez, and
22 Ms. McCart were in the back seat?

23 A Correct.

24 Q Okay. And after you dropped Ms. McCart,
25 Ms. Rodriguez, and Mr. Moloughney off where did you

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1 and your son go?

2 A Home.

3 Q Okay. Were -- what -- let me rephrase this
4 question.

5 When you were driving to drop off
6 Mr. Moloughney, Ms. McCart, and Ms. Rodriguez, were
7 there conversations about any plans for the remaining
8 of the evening?

9 A Well, a lot of people had mentioned in the
10 suite let's go out. Let's, you know -- it's a Friday.
11 I mean, not Friday. Sunday afternoon. And, you know,
12 they -- people like to do Sunday Fun Day.

13 And I -- I know that they had a
14 conversation. And Sarah was parked there 'cause
15 that's where Sarah had met 'cause Sarah didn't know
16 the whole area. So they had talked about going out
17 further which I found out they did.

18 Q Okay. Do you know who all went out after
19 you dropped the three individuals off?

20 A I know those three went out. I know that.

21 Q Do you know of anyone else that went out
22 with them that would have been employed by Equity
23 Prime Mortgage?

24 A I don't know if anybody joined later or
25 anything. I don't -- I don't -- as CEO and president,

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1 I have to keep a distance for legality reasons. And I
2 have to -- I like people a lot, but I just -- I got to
3 separate at a certain point.

4 Q Okay. How did you know that those three
5 went out after you dropped them off?

6 A 'Cause I dropped them off and they -- they
7 said they were going out. I don't know if they all
8 did, but then they -- Sarah said they went out.

9 Q Okay. When did you talk to Sarah about that
10 night?

11 A She just thanked me the next day and just
12 said that they -- they went out. And I said oh, cool.
13 I mean, I figured. I just assumed.

14 Q Did Sarah tell you where they went?

15 A No.

16 Q Okay. Did you ever talk to either
17 Ms. McCart or Mr. Moloughney about where the three of
18 them went out after you dropped them off?

19 A No.

20 Q Okay. Other than what someone may have told
21 you or you may have learned through the investigation,
22 do you have any other knowledge about anything else
23 that happened on the evening of December 20th and the
24 morning of December 21st after you dropped off
25 Ms. Rodriguez, Mr. Moloughney, and Ms. McCart?

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1 A Outside of, you know, Tiar and Mark's time
2 together that we talked about earlier, no. I don't
3 know what happened in between.

4 Q Okay. And the only way that you have the
5 knowledge about what happened in the course of the
6 interactions between Ms. McCart and Mr. Moloughney is
7 through what Mr. Moloughney told you and what Ms.
8 Green told you about her investigation?

9 A Sarah, like I said earlier, told me that
10 they went out, so.

11 Q Again, I'm asking about the interactions
12 between Ms. McCart and Mr. Moloughney that were --

13 A Yeah. Only when I asked him about
14 the -- the e-mail that went out.

15 Q My point is that you were not present. You
16 have not seen any video that shows it. The only
17 information that you have about the interactions
18 between Ms. McCart and Mr. Moloughney is based on what
19 someone else has told you?

20 A Yeah. I mean, Mark. But, you know, no.
21 No. I don't have video or any evidence like that or
22 anything.

23 Q Okay. The apartment that you dropped
24 Ms. McCart and Mr. Moloughney and Ms. Rodriguez off at
25 is owned by Equity Prime Mortgage. Correct?

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1 A Well, we don't own the -- the apartment
2 building. But we -- we lease -- I don't know if we
3 leased two at that point, but we leased at least one.

4 Q Okay. And why does Equity Prime Mortgage
5 lease that apartment?

6 A In the virtual world when executives are
7 coming in, a lot of people didn't like the Westin that
8 was next to us. They wanted a little bit of more of
9 a -- a feel.

10 We also used it to shoot videos from time to
11 time with Ric Flair of all people in marketing. True
12 story. I mean, you're asking me. I have to tell you.

13 It was very convenient when I had COVID.
14 Nobody was around and I went there 'cause my wife was
15 panicked even though nobody got sick but me, and I
16 didn't get sick, so.

17 So they wanted a little bit of a
18 refrigerator, a kitchen, an area to chill. They
19 hated, you know -- I mean, this room is way more
20 glorified than your average hotel room. So they
21 didn't want a bed, a couch, and -- not even a couch.
22 A bed, TV, and shower.

23 Q Okay. It was -- the apartment is leased for
24 the convenience of the executives that made use of it
25 from time to time?

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1 A It's also not even -- you know, sometimes we
2 would let other people, if they're senior leadership.
3 We've allowed -- I know that in the second one we got
4 it because sometimes some of the sales folks would
5 come into town and they were going to be here extended
6 periods of time. Like, extended meaning like a week.

7 Unfortunately, the extended stays by our
8 office are a little bit risque I'll say. So the
9 apartment was a lot safer. I'm just going to
10 say -- I'm just being honest. The one behind the
11 Publix is, like, in such a nice area. I don't know
12 how that one went sideways, but it did.

13 So we thought it was safer and better. And
14 if somebody is going to be staying a week or so and
15 back and forth, some people keep clothes there. So
16 we -- we thought it was a better environment.

17 Q Okay. I'm going to hand you what's been
18 previously marked as plaintiff's Exhibit 34.

19 (Plaintiff Exhibit 34 was previously
20 marked for identification.)

21 Do you recognize the picture that you see on
22 the first page of Exhibit 34?

23 A Do I recognize it?

24 Q Yes, sir.

25 A I mean, I could guess.

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1 Q Well, have you seen it before today? Let me
2 ask you that way.

3 A No. I haven't seen it.

4 Q Okay. So what is your guess as to what this
5 document is depicting?

6 A I know that the -- what the heck is her
7 name? The Falcon staff told us to take whatever we
8 wanted home.

9 Q Okay. So you -- do I understand you to be
10 testifying that what's depicted in this picture are
11 employees of Equity Prime Mortgage taking --

12 A If I had to guess.

13 Q -- home things that the Falcon staff had
14 told them they were free to take?

15 A Yeah.

16 Q Okay. And can you identify who are the
17 people in the picture?

18 A Only person I recognize is in the middle.
19 Well, that's -- is that Ashley Thomas? 'Cause I know
20 she wanted some to go home. That's -- that's the only
21 person I recognize right off the top is Ashley Thomas.

22 Q Who is Ashley Thomas?

23 A I believe that's her name. I'm pretty sure
24 it is. She works -- worked for us. I don't know if
25 she still does, but she did.

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1 Q Okay. She's one of the employees that was
2 at the Falcons event?

3 A Yeah. She's in Atlanta. You know, like I
4 said.

5 Q Take a look at the second page of Exhibit
6 34. Do you recognize who that is in the picture?

7 A I believe that's Tiar without a mask. The
8 mask mandate thingy throws me off at times. But that
9 looks like Tiar.

10 Q Do you have any idea who took these pictures
11 at the Falcons event?

12 A Nn-mmm.

13 Q Okay. Have you seen them before --

14 MR. WILSON: Is that a no?

15 THE WITNESS: No. I do not.

16 BY MS. RAGAN:

17 Q Have you seen those pictures before today?

18 A No. Are we done here?

19 Q Yes. With that one. Thank you so much.

20 A Okay. Sorry. I know there was more
21 pictures, so I didn't know.

22 Q Yeah. That's okay. That's the only ones I
23 wanted to ask you about. All right.

24 I'm going to hand you what I'm marking for
25 identification as plaintiff's Exhibit 55.

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1 (Plaintiff Exhibit 55 was marked for
2 identification.)

3 If you will just take a look at that
4 document and then let me know once you've had a chance
5 to review it.

6 A Like, read the whole thing?

7 Q Well, in as much detail as you want. I'm
8 going to ask you some questions about it. So if you'd
9 like to familiarize yourself with it, you're free to.
10 If you want me to jump right into the questions, I'll
11 be glad to.

12 A Yeah. You can jump in 'cause then
13 I'll -- if I've got to read or reference, I will.

14 Q Sure. Do you recognize Exhibit 55?

15 A I do not.

16 Q Okay. It appears to me that Exhibit 55 is
17 an e-mail chain that starts with an e-mail that you
18 sent. Can you verify whether that's accurate or not?

19 A See, here it looks like Eric sent it.

20 Q Okay. I did see that. But the end of that
21 e-mail chain is the signature -- is your signature
22 block. Do you see that?

23 A I do.

24 Q Can you explain to me why your signature
25 block would have been on an e-mail that Eric sent?

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1 A Yeah. 'Cause Wine Wednesday was something
2 that was brought upon for the culture from EPM. So I
3 just wanted people to know that I -- I support this
4 type of cultural interaction.

5 And it's good for the organization 'cause if
6 I didn't put my e-mail on it, they may think it's just
7 Eric doing it. And then some people may not want to
8 participate. I've learned that more people
9 participate in the culture if I'm involved.

10 Q Okay. So is it fair for me to understand
11 then that the e-mail was sent by Eric but at your
12 direction?

13 A Yeah. An overall part of his empowerment of
14 his job duties.

15 Q Okay. Understood. So the original e-mail
16 on this chain, my understanding is that it's a request
17 that employees can win a bottle of wine if they go
18 onto websites and specifically Indeed.com and leave a
19 favorable review of Equity Prime Mortgage. Is that
20 correct?

21 A I'm not sure of all the parameters, but I
22 know that we have Wine Wednesday. And I know that
23 they play games and try to have fun.

24 Q Okay. So the basis of my question was
25 interpreted from the information that's in the e-mail.

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1 So if you need to review the e-mail to be able to
2 answer my question, then please feel free to do so.

3 A Okay.

4 Q But the question essentially is: Do I
5 understand correctly that the purpose of this e-mail
6 that was sent by Eric at your direction was to
7 incentivize employees to go online and provide a
8 review favorable to Equity Prime Mortgage in exchange
9 for winning a bottle of wine?

10 A The EPM way of keep things fun. We want to
11 offer a challenge to win a bottle of vino. First 24
12 employees to complete an Indeed review in a minimum of
13 three sentences will be rewarded a bottle of vino.
14 Once you receive the submission.

15 I mean, it ties reading it backwards that
16 for this week it was to put a -- a review on Indeed.

17 Q So did I interpret the e-mail correctly
18 then?

19 A For this week. Yes.

20 Q Okay. Your point is that Wine Wednesday is
21 something that was done every week and --

22 A Still is.

23 Q -- and this challenge is something that was
24 just particular to the week that this e-mail was sent
25 in Exhibit 55?

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1 A Yeah. And the wine -- you know, not that it
2 matters, but it all comes from Gary Vaynerchuk 'cause
3 that's part of our -- one of the speakers that has
4 spoken, and we think he's a good person about empathy
5 and things like that.

6 So it's, kind of -- they're all, kind of,
7 tied together. That's why it's part of the culture
8 and all that stuff. Yeah.

9 Q Okay. And so the second e-mail in this
10 chain is Tiar responding to Eric as is part of the
11 steps in the competition to win the wine showing that
12 she has in fact provided a review that is more than
13 the minimum of three sentences, and claiming one of
14 the bottles of wine?

15 A Yes.

16 Q Okay. Why did -- let me rephrase this
17 question.

18 What was the purpose of requesting the
19 employees to go online to provide the reviews of
20 Equity Prime Mortgage?

21 A I am not a marketing expert, so I will start
22 with that. That was based off Eric, who is more in
23 that line. I think from what I gather from my
24 conversations and one-on-ones with him, that
25 unfortunately usually online reviews, it's not

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1 the -- the happy people.

2 So we needed to want -- to try to raise the
3 spirits. Because at times unfortunately it's the
4 unhappy people and you have to have a -- you know,
5 online presence and reputation matters a whole lot
6 more today and even last year than it did in 2015.

7 Q So do I understand you to be saying that
8 this competition was Eric's idea?

9 A Wine Wednesday was mine just as an idea
10 to -- to bring people together. Now the individual
11 parameters, I don't -- I don't touch that.

12 Q Okay. Then do I understand you to be saying
13 that the purpose behind this particular Wine Wednesday
14 was to generate positive reviews to counteract some of
15 the negative ones that had been posted online?

16 A Just in general. Most people just -- the
17 happiest people in the world just never tell anybody.
18 So we want to get them there. It just -- it's similar
19 to surveys.

20 You know, we try to get engagement in 80 or
21 90 so you can leverage data better. But there's still
22 10 or 20 people -- even if they're happy as can
23 be -- will not do anything.

24 Q Right.

25 A So it was motivate them.

1 Q The answer to my question is yes; the
2 purpose of this particular Wine Wednesday that's
3 reflected in Exhibit 55 is to motivate people to put
4 positive reviews online so that you can counteract the
5 negative ones?

6 A Yes. I'll go with that.

7 Q Okay. I'm going to mark for identification
8 plaintiff's Exhibit 56.

9 (Plaintiff Exhibit 56 was marked for
10 identification.)

11 And again I'm going to ask you a few
12 questions about the e-mail. However, please feel free
13 to review it in as little or as much detail as you'd
14 like.

15 A Mm-hmm.

16 Q This e-mail is one that is sent from your
17 e-mail address. Is that correct?

18 A Yes. From my e-mail address. Yes.
19 Correct.

20 Q And it was sent on July 29th of 2020.

21 A Yes.

22 Q And it was sent directly from you to Ms.
23 McCart. Right?

24 A That would have been a bcc throughout the
25 whole company 'cause I can tell when they use my

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1 e-mail how this is set up.

2 Q I see.

3 A 'Cause I don't know how to set these up.

4 Q Okay. So this went to --

5 A Oh. Yeah. And if you look at the e-mail
6 address, you can tell 'cause look at the top where it
7 says Eddy Perez. But if you look in parentheses, it's
8 Mick Donahue at Equity Prime. That's not me.

9 So that's how I know they name it from the
10 marketing people, the other name because they're in
11 charge of that. They just put my name 'cause it's
12 better interaction.

13 Q Right. That's a different e-mail though.
14 That's --

15 A No. Right there.

16 Q -- the second e-mail in the chain.

17 A Right there.

18 Q Okay. And that's a second e-mail though.
19 There's one e-mail that is yours and then there's
20 another e-mail that is M. Donahue.

21 A No. That's it. That's the original one.
22 It says Eddy Perez, CMB. Parentheses or whatever.
23 It's not parentheses. M. Donahue.

24 Q I see.

25 A So that's M. Donahue. That's not me.

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1 Q CMB is your certification?

2 A Yeah. Certified mortgage banker. Excuse
3 me. Sorry about that.

4 Q No. No. I appreciate the clarification.
5 Okay. So you're saying this wasn't an e-mail only to
6 Ms. McCart. This was an e-mail to the whole company.

7 A So you know how they do those bcc's? 'Cause
8 I've learned that. That then it shows To, like it's
9 individual to everybody, not just blanketed.

10 Q Okay. So this is an e-mail where -- did you
11 send this e-mail out or somebody created it on your
12 behalf?

13 A Well, it has my name, the account. But
14 that's not me because it shows who it is, being Mick.
15 He's over marketing. He's in marketing. So that
16 would make sense since Eric reports to me, and that's
17 one of the people that report to him.

18 Q All right. So this is Mick using your
19 account to send this e-mail to the company?

20 A That's like the marketing account. That's
21 not my eperez@epm.net. Or at that point at
22 equityprime.com.

23 Q Okay. But do I understand how this e-mail
24 went out correctly? Mick Donahue sent the e-mail out.
25 And although it uses your name, it's not your specific

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1 e-mail? It just reflects as though it's coming from
2 you?

3 A To try to get more engagement. Yes.

4 Q Okay. And the purpose of it reflecting that
5 it's coming from you is to get the employee's
6 attention to say hey, this is a message from the CEO?

7 A It's what they requested once. I would
8 rather have different people at the table. I'm not an
9 egomaniac. I -- I'd rather have executives take that.
10 But they say that that gets better engagement, so I
11 have to listen to people.

12 Q What you're saying is using your name gets
13 better engagement?

14 A Yes.

15 Q And again this is another example of where
16 the company is incentivizing employees to go and leave
17 a review on a video for the purpose of --

18 A YouTube?

19 Q -- receiving positive --

20 A If I had to guess. Hold on. Is that what I
21 saw? I would guess is this is YouTube. I try
22 to -- yeah. It's to build our YouTube following.

23 Q Okay. And it's a marketing effort to
24 encourage positive --

25 A Yeah. Convey the --

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1 Q -- commenting and viewing of the --

2 A We don't make anybody do it. And people
3 that are happy, they put their own videos together if
4 they want to do it. And talk about. And then put it
5 out there.

6 Q Okay. And in exchange for doing this, again
7 the employee is getting a bottle of wine?

8 A Yeah. This is a Wine Wednesday one. I had
9 to look at the subject.

10 Q All right. And then the second e-mail in
11 this chain is Ms. McCart responding to Mr. Donahue
12 showing where she has in fact followed the procedure
13 that was intended to get the positive comments on this
14 YouTube video?

15 A Yes.

16 Q Okay.

17 A Do we need this thing?

18 Q Oh. We can put it right here.

19 A Okay.

20 Q Thank you, sir.

21 A Yep. You're welcome.

22 Q All right. I'm going to hand you what's
23 been previously marked for identification as
24 plaintiff's Exhibit 35.

25 //

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1 (Plaintiff Exhibit 35 was previously
2 marked for identification.)

3 Have you seen these documents in Exhibit 35
4 before?

5 A I have not.

6 Q Okay. Is it fair to say that these are
7 examples of a couple of the less-than-favorable
8 comments that we discussed were made online about
9 Equity Prime Mortgage?

10 A Now that you're showing me, I'd say yes.

11 Q This is what you were referring to when you
12 said that it's the unhappy people that are making the
13 comments online?

14 A Just in general you want as much engagement
15 as you can.

16 Q So my question is: This is an example of
17 what you said about people who were the unhappy people
18 making the comments online?

19 A Yes.

20 Q Okay. But you hadn't seen these comments
21 that are reflected in Exhibit 35 prior to me handing
22 them to you?

23 A No. I've never -- I don't know how to work
24 Indeed. I know Glassdoor. So that's -- I specialize
25 on that one.

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1 Q Okay. Even though you had not seen these
2 particular comments in Exhibit 35, you were aware that
3 there were negative comments out there that the
4 marketing campaigns we just talked about were intended
5 to counteract. Right?

6 A Yes. Eric had told me.

7 Q Okay.

8 A Still need this?

9 Q You can set it right there.

10 A Okay.

11 Q Thank you, sir.

12 A Yeah. No, no.

13 Q Okay. I'm going to hand you what I'm
14 marking for identification as plaintiff's Exhibit 57.

15 (Plaintiff Exhibit 57 was marked for
16 identification.)

17 Do you recognize Exhibit 57?

18 A After you watch this video, you'll see
19 through the EPM way. Exhibiting the many fashions
20 that were -- the most important part is to celebrate
21 someone that has overcome a huge obstacle. It shows
22 the character. Say you want a better life and embrace
23 the internal conflict to seek along with accomplished
24 personal growth.

25 I'm not sure exactly what's before this. I

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1 don't know what the video is.

2 Yes. I understand it because Jeff has
3 overcome dependency issues.

4 Q Okay. When you say dependency, you mean
5 substance or alcohol dependency?

6 A Should I divulge? I mean, I know. He's
7 part of AA and I believe he went to NA as well.

8 Q Okay. And so this video has some reference
9 in it to Mr. Batson's dependency issues?

10 A I don't know if it does. I don't -- I'd
11 have to see it. I just know that he's overcome a lot
12 and done very well. And he went from an employee that
13 was performing enough and then -- and then started
14 excelling.

15 Q Okay. And so this video was a way of you
16 showing support for Mr. Batson in his --

17 A Yeah. I think mental health is one of the
18 biggest travesties in this world that nobody's willing
19 to talk about and face. Unfortunately, I've dealt
20 with it personally. Not myself, but with my mother
21 and other people in my family.

22 So I'm a big proponent. I've talked about
23 it online. I've done it for veterans. So I'm pretty
24 sure if I see the video I could comment even deeper to
25 you.

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1 But that's where I'm always pushing people
2 to talk about their challenges. Face them. There are
3 no saints in the room. And just try to get a little
4 bit better every day. But you know, not to be -- it's
5 okay to fall. You've just got to get better.

6 Q Okay. And so this e-mail that you were
7 sending out was for the purpose of showing support for
8 Mr. Batson in dealing with his challenges with
9 dependency.

10 A He must have done something. I'm
11 only -- once again, we're extremely proud of you.
12 Your accomplished personal growth. I'm not sure if
13 there was a promotion at that point or something. I
14 don't know the whole -- I would need what was before
15 that to be able to comment exactly.

16 But yes. It's something reaffirming and
17 something positive. I can say that.

18 Q Okay. So I guess I'm struggling to
19 understand why it is that you need to see the video.
20 What I am asking about is the e-mail as it appears, as
21 opposed to the video.

22 So your e-mail that you sent from your
23 e-mail address, eperez@epm.net, on January 24th has
24 language in it wherein you say Jeff Batson, we are
25 extremely proud of you.

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1 A Mm-hmm.

2 Q Do you use that?

3 A Yeah. Yeah.

4 Q Did I read that correctly?

5 A You did.

6 Q Okay. So is it safe for me to assume in
7 reading that e-mail that you're sending this e-mail
8 for the purpose of showing support for Mr. Batson and
9 encouraging him in his challenges with addiction?

10 A And everybody in general. But yes. Just
11 overall mental wellbeing.

12 Q Okay. And you sent that e-mail showing your
13 support for Mr. Batson to the entire Equity Prime
14 company?

15 A Yeah. 'Cause I see it's just from me. So
16 it's one of those bcc's.

17 Q Okay.

18 A Are we done with that one?

19 Q We are done with that one. Thank you, sir.

20 A Okay. Yep. You're welcome.

21 Q At any time after Ms. McCart's employment
22 ended, did you have any conversations with any
23 industry personnel discouraging them from employing
24 her?

25 A Nope.

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1 Q Did you ever have any conversation with
2 Charles Dixon with American Safe Lending suggesting
3 that Ms. McCart is not someone that he or his company
4 should consider for employment?

5 A I don't even recall who Charles Dixon is.

6 Q Okay. So is it safe for me to assume that
7 you did not have a conversation with him wherein you
8 discouraged him or his company from employing
9 Ms. McCart?

10 A Like I says, I don't know what conversation
11 I had with him if I did. I have -- I don't
12 even -- Charles Dixon. What's the name of the
13 company?

14 Q American Safe Lending.

15 A American Safe. I don't even recall the
16 company name.

17 Q Do you recall having any conversation with
18 Sy Kingsada in which you would have discouraged him
19 from employing Ms. McCart?

20 A I have no idea who Sy Kingsada is.

21 Q He's also with American Safe Lending.

22 A I'd have to see pictures to see their face
23 to know. Or I'd have to -- I don't know.

24 Q So if you don't know these individuals, is
25 it safe for me to assume that you did not have

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1 conversations with either one of them discouraging
2 them from employing Ms. McCart?

3 A I didn't -- I do not recall if I know these
4 individuals. The names don't stick out. So -- but I
5 do not remember having any conversations of
6 discouraging any employment with anybody with
7 Ms. McCart. So I'm not sure exactly who these
8 gentlemen are.

9 Q Do you recall having any conversations with
10 any individual wherein you expressed to them -- let me
11 make that even more specific.

12 Do you recall having any conversations with
13 any individual in the mortgage industry expressing to
14 them that they should not hire Ms. McCart because she
15 simply jumps from job to job until she can find
16 someone to make a frivolous claim against for the
17 purposes of earning money?

18 A Not to my knowledge.

19 Q To your knowledge, you have never spoken to
20 anyone within the mortgage industry discouraging them
21 from employing Ms. McCart or suggesting that she makes
22 frivolous employment claims?

23 A Not to my knowledge.

24 Q Okay. What about Mike Kortas? Do you know
25 Mike Kortas?

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1 A I do know Mike.

2 Q And do you know what company he's with?

3 A Yes.

4 Q What company is he with?

5 A NEXA.

6 Q Okay. Do you recall having any
7 conversations with Mr. Kortas about Ms. McCart of any
8 nature?

9 A God. I talk to him all the time. You would
10 think I would remember that if I did. I don't -- I
11 don't recall anything.

12 I know that -- what did Frank tell me? She
13 showed up to some event that we were sponsoring, and
14 NEXA was sponsoring together. But I don't remember.
15 And she wasn't employed by NEXA. So to my knowledge,
16 I don't -- I don't remember having any conversations
17 with Mike Kortas.

18 Q Okay. About Ms. McCart at all?

19 A I didn't know about that till Frank told me
20 'cause I was supposed to go to that event. And then I
21 had a family -- I had to go pick up my son or do
22 something. Or no. I had to get my oldest daughter
23 from Cirque du Soleil.

24 Q Again I'm not asking about the event. I'm
25 asking you don't recall having any conversations with

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1 Mike Kortas about Ms. McCart at all?

2 A I do not recall.

3 Q To your knowledge, did Frank Ferrans at this
4 event have any conversation with Mike Kortas about Ms.
5 McCart?

6 A I don't -- I don't believe Mike was there.

7 Q So the answer to my question is no; to your
8 knowledge you have no information that suggests that
9 Mr. Ferrans had a conversation --

10 A No.

11 Q -- with Mr. Kortas?

12 A I can't -- I mean, I can't speculate for
13 him. But I don't -- I don't believe so.

14 Q Did you have any conversation with Mr.
15 Ferrans wherein he expressed to you, I talked to Mike
16 Kortas about Ms. McCart?

17 A No.

18 Q Okay. What about Dave Kushner? David
19 Kushner?

20 A Oh. I know him. I used to work for him.

21 Q Okay. Have you had any conversations with
22 David regarding Ms. McCart?

23 A No.

24 Q Okay. Have you had any conversations with
25 David wherein you discouraged him from employing Ms.

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1 McCart?

2 A That's where she came from 'cause she told
3 me. She's like hey, I used to work before you with
4 Dave Kushner. I said oh, man. Me and him have a long
5 history. So I don't know how I could discourage if he
6 had already employed her, so.

7 Q I'm talking specifically about after her
8 employment with EPM. Did you have any conversation
9 with Dave Kushner about Ms. McCart?

10 A No. I haven't talked to Dave in years.

11 Q Okay. Did you have any conversation with
12 anyone in American Home Mortgage discouraging them
13 from employing Ms. McCart after she was terminated
14 from EPM?

15 A I don't recall talking to anybody there.
16 And I don't know. I can't even recall the name of
17 that company. I don't even know where they're
18 located.

19 I mean, you could give me the biggest bucket
20 of money in the world and I couldn't answer anything
21 about them.

22 Q Okay. Moral of the story that I should
23 understand from your testimony is that you are
24 testifying under oath that you have had no
25 conversations with any individual for the purpose of

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1 discouraging them from hiring Ms. McCart or for the
2 purpose of suggesting to them that Ms. McCart's M.O.
3 is to jump from job to job until she can make a
4 frivolous employment claim?

5 A Not to my knowledge. I do not recall.

6 Q If you had had that conversation, would you
7 remember it?

8 A It's a good question.

9 Q I thought so.

10 A I have a pretty good memory, but if I told
11 you I remember everything I've ever talked about, I
12 have always deviated on this one to tote the line and
13 say it's with Legal when people ask me. So I don't
14 know if they made an assumption that I said something
15 to them based off oh, it's with Legal. That's code.
16 So I can't talk on their behalf.

17 But I mean, I'm not going to sit here and
18 say that I didn't tell them that it's a legal matter.
19 And I can't comment. I -- I wouldn't be shocked if I
20 said something like that, but I don't -- I don't
21 discourage -- you know, I still have good
22 relationships with people that it didn't work out
23 with. I don't -- I don't begrudge them.

24 Q Do you have good relationships with people
25 that sue you or your company?

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1 A Yeah, dude. Mike sued me once. Me and him
2 are buddies.

3 Q Okay. Mike Kortas?

4 A Yeah. He sued me. Yeah. No. I have good
5 people relations with people that sued me.

6 Q Okay. Do you have a good relationship with
7 Ms. McCart?

8 A I don't think it's bad. We've never spoken.
9 She doesn't have my cellphone.

10 Q You mean you've not spoken to her since her
11 employment was terminated?

12 A Correct.

13 Q You did speak to her while she was employed?

14 A Yeah. And I thought it was a pretty
15 cordial, good relationship.

16 Q Okay. So do I understand your testimony
17 correctly that as you sit here today, you can't recall
18 making any specific comments that would have
19 discouraged any mortgage industry professional from
20 employing Ms. McCart, but you may have talked to them
21 about the existence of a legal matter and leaving it
22 at that?

23 A Yeah. I don't -- I don't recall. That's
24 ...

25 MS. RAGAN: Okay. I think that we can

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1 wrap up then. I have no further questions for you. I
2 appreciate your time. We're right on the mark, I
3 think.

4 MR. KREINER: Yes. Thank you for that.

5 THE WITNESS: Thank you.

6 MR. WILSON: No questions.

7 THE REPORTER: All right. So State
8 Rules require that the witness shall be afforded the
9 opportunity to review the transcript.

10 MR. WILSON: Yep. He wants to read
11 and sign.

12 THE REPORTER: Thank you. And would
13 counsel like to order a copy of the transcript?

14 MR. WILSON: Yes.

15 THE WITNESS: Oh. Shit. Sorry. Are
16 we off the record?

17 THE REPORTER: No. I'm on the record.

18 THE WITNESS: Oh. Oh. Thank God.

19 We're off the record?

20 MS. RAGAN: We're not off the record.

21 MR. WILSON: Well, you've said shit and
22 fuck on the record anyway.

23 MS. RAGAN: Multiple times.

24 We have a standing order with you guys.

25 So yes. Please.

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1 THE WITNESS: I try not to. I got to
2 work on it.

3 MS. RAGAN: My paralegal will kill me
4 if I order the wrong thing.

5 MR. KREINER: He'll forward me a copy.

6 THE REPORTER: Perfect. All right. So
7 we are off the record at 3:52 p.m.

8 (Signature reserved.)

9 (Whereupon, at 3:52 p.m., the
10 proceeding was concluded.)

11

12

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CERTIFICATE OF DEPOSITION OFFICER

I, ARIEL DALLAS, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



ARIEL DALLAS

Notary Public in and for the
State of Georgia

☒ [X] Review of the transcript was requested.

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CERTIFICATE OF TRANSCRIBER

I, JULIE WHEELAND, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JULIE WHEELAND

Mccart, Tiar v. Equity Prime Mortgage, LLC, et al.

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1 Brent Wilson

2 bwilson@elarbeethompson.com

3 August 29, 2022

4 RE: McCart, Tiar v. Equity Prime Mortgage, LLC, Et Al.
5 8/15/2022, Eddy Perez (#5316895)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-southeast@veritext.com

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21
22 Yours,

23 Veritext Legal Solutions
24
25

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2 Eddy Perez (#5316895)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

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21 REASON_____

22 _____

23 _____

24 Eddy Perez

Date

25

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1 Mccart, Tiar v. Equity Prime Mortgage, LLC, Et Al.

2 Eddy Perez (#5316895)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Eddy Perez, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10
11 _____
12 Eddy Perez

_____ Date

13 *If notary is required

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Georgia Code

Title 9, Chapter 11

Article 5, Section 9-11-30

(e) Review by witness; changes; signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by paragraph (1) of subsection (f) of this Code section whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed. If the deposition is not reviewed and signed by the witness within 30 days of its submission to him or her, the officer shall sign it and state on the record that the deposition was not reviewed and signed by the deponent within 30 days. The deposition may then be used as fully as though signed unless, on a motion to suppress under paragraph (4) of subsection (d) of Code

Section 9-11-32, the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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